S. HRG. 103–889, VOL. XV

RESOLUTION TRUST CORPORATION ("RTC") DOCUMENT PRODUCTION

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

VOLUME XV

RESOLUTION TRUST CORPORATION ("RTC")
DOCUMENT PRODUCTION
IN RESPONSE TO S. RES. 229

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

July 1, 1994

Ms. Kelly Cordes
Chief Clerk
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Ms. Cordes:

As requested in the June 22, 1994 letter from Chairman Riegle and Senator D'Amato, we are furnishing you with the enclosed documents in the possession of the RTC which are responsive to the Committee's request.

As indicated in the enclosed copies of the RTC's letters to the Chairman and Senator, we are in the process of compiling the documents requested in Mr. Michael Davidson's letter of June 30. These documents will be provided to you next week.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-7314

Enclosures

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

July 1, 1994

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Today, we have delivered to Ms. Kelly Cordes, the Committee's Chief Clerk, the documents in the possession of the Resolution Trust Corporation which we believe are responsive to the request set forth in your June 22, 1994 letter.

In compiling these documents, we inquired of all RTC offices and employees whom we reasonably believed may possess a document that would be responsive to your request. Those offices include the Legal Division, the Department of Investigations, Offices of Governmental Relations and Corporate Communications.

Also being provided are various RTC documents recently received from the Department of the Treasury which we believe are responsive to your request. We are presently engaged in discussions and correspondence with Treasury with respect to determining if there are other RTC documents under its control that may be responsive to your request.

Because these documents do not relate to the substance of our investigation, we are asserting no privilege with respect to the documents being furnished.

Finally, we are in receipt of the letter of June 30 from Mr. Michael Davidson of the Office of Senate Legal Counsel requesting "any written policies or descriptions of policies, in effect now, or previously, concerning communications with other executive branch or independent entities." We are compiling these documents and will provide them to Ms. Cordes next week along with any other documents that we may find to be related to your request.

As always, please feel free to contact me should you have any questions.

Sincerely,

Johnny Ryan
John E. Ryan
Deputy and Acting
Chief Executive Officer

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

July 1, 1994

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As requested in your letter of June 22, 1994, regarding documents relating to Madison Guaranty, I am furnishing to Ms. Kelly Cordes copies of a daily "emerging stories" bulletin that I prepared for senior managers at the Resolution Trust Corporation. This daily bulletin was sent to officials at the Treasury Department during the period Roger Altman served as the RTC's Interim Chief Executive Officer. None were sent by my office to the White House.

I also have provided to Ms. Cordes copies of the bulletin for the period after Mr. Altman's service as RTC CEO ended and distribution to the Treasury Department ceased. I am including these in order to assure you that I have given the broadest possible interpretation to your document request.

If I can be of any further assistance, please let me know.

Sincerely,

Stephen J. Katsanos
Director
Office of Corporate Communications
(202) 416-7566

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

July 8, 1994

MEMORANDUM TO: Ms. Kelly Cordes
Chief Clerk
Committee on Banking, Housing, and Urban Affairs
United States Senate

FROM: Peter E. Knight
Director, Office of Governmental Relations
Resolution Trust Corporation

RE: Document Index

Pursuant to my July 1, 1994 memorandum to you, enclosed is the index to the documents furnished in response to the Committee's request.

The "Stamp No.(s)" column on the index refers to the RTC bate stamp number on the bottom left corner of each document. You will notice that the following numbers are missing:

001871
002080 - 002083
002094 - 002109
002113 - 002115

There are no documents for these numbers, due to problems encountered with the bate stamp.

If you have any questions, please call me at 416-2116.

cc: Michael Davidson

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* Note- due to problems encountered with the bate stamp, document numbers 001871, 002080 - 002083, 002094 - 002109, and 002113 - 002115 do not exist. *

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001863 - 001870	Legal/ Senate Oversight Board Hearing Files	Table of Contents and Questions & Answers prepared in preparation for Senate Semi-Annual Oversight Board hearing
001872 - 001879	Legal/ Senate Oversight Board Hearing Files	Mar. 1, 1994 Letter from Representative James A. Leach to Interim CEO Roger Altman w/ enclosures
001880 - 001882	Legal/ Senate Oversight Board Hearing Files	Feb. 23, 1994 Letter from Jean Hanson to Rep. Leach

STAMP NO.(s)	DEPT./NAME	DESCRIPTIONS
001883 - 001884	Legal/ Senate Oversight Board Hearing Files	May 4, 1993 Letter from Roger Altman to Chair Gonzalez
001885	Legal/ Senate Oversight Board Hearing Files	Feb. 10, 1994 Letter from Mr. Bernard Nussbaum to Rep. Wolf
001886	Communications/ Stephen Katsanos	Mar. 4, 1994 RTC News Brief
001887 - 001888	Communications/ Stephen Katsanos	Mar. 9, 1994 Electronic mail from Steve Katsanos to James Barker
001889	Communications/ Stephen Katsanos	Mar. 9, 1994 Electronic Mail from Steve Katsanos to Ellen Kulka
001890 - 001891	Governmental Relations/ Peter E. Knight	Mar. 3, 1994 Memo from Peter Knight to Ben Nye w/ attachment

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001892 - 001894	Governmental Relations/ Peter E. Knight	Mar. 2, 1994 Memo from Jean Hanson to Roger Altman
001895	Governmental Relations/ Peter E. Knight	Mar. 3, 1994 Memo from Casey Carter to Peter Knight
001896	Legal/ Tom Hindes	Mar. 24, 1994 Electronic mail from April Breslaw to John Ryan et al
001897 - 001898	Legal/ Tom Hindes	Mar. 8, 1994 Electronic mail from Tom Hindes to John Ryan et al
001899 - 001903	Legal/ Tom Hindes	Mar. 7, 1994 letter from Roger Altman to Ellen Kulka re: Subpoena
001904 - 001910	Legal/ Tom Hindes	Facsimile from Casey Carter to Tom Hindes - Senator D'Amato's press release

STAMP NO.(s)	**DEPT./NAME**	**DESCRIPTIONS**
001911 - 001938	Legal/ Senate Oversight Board Hearing Files	Questions and Answers for Roger Altman
001939	Legal/ Jim Igo	Questions and Answers for Roger Altman w/ handwritten notes
001940	Legal/ Jim Igo	Questions and Answers for Roger Altman w/ handwritten notes
001941	CEO/ John E. Ryan	Questions and Answers for Roger Altman w/ handwritten notes
001942	Legal/ Jim Igo	Questions and Answers for Roger Altman w/ handwritten notes
001943 - 001944	Legal/ Tom Hindes	Questions and Answers for Roger Altman w/ handwritten notes
001945	Legal/ Jim Igo	Questions and Answers for Roger Altman w/ handwritten notes (Duplicate of 001939)

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001946	CEO/ John E. Ryan	Questions and Answers for Roger Altman w/ handwritten notes
001947	Legal/ Tom Hindes	Draft response to Answers for Roger Altman prepared by April Breslaw
001948 - 001954	Communications/ Stephen Katsanos	Mar. 1, 1994 Senator D'Amato's news release w/ attachments
001955 - 001957	Legal/ Senate Oversight Board Hearing Files	Questions and Answers for Roger Altman
001958	Governmental Relations/ Peter E. Knight	Feb. 1, 1994 Letter from Roger Altman to Rep. Leach
001959 - 001961	Governmental Relations/ Peter E. Knight	Jan. 10, 1994 Letter from Bob Dole, et al to Roger Altman w/ enclosed letter

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001962 - 001978	Governmental Relations/ Peter E. Knight	Feb. 23, 1994 Letter from Jean Hanson to Rep. Leach w/ enclosed letter
001979 - 001980	Governmental Relations/ Peter E. Knight	Mar. 1, 1994 Letter from Rep. Leach to Roger Altman
001981 - 001982	Governmental Relations/ Peter E. Knight	Mar. 21, 1994 Letter from John E. Ryan to Rep. Leach
001983	Governmental Relations/ Peter E. Knight	Mar. 11, 1994 Letter from John E. Ryan to Rep. Leach
001984 - 001989	Governmental Relations/ Peter E. Knight	Mar. 1, 1994 Letter from Rep. Leach to Art Kusinski

STAMP NO.(s)	DEPT./NAME	DESCRIPTIONS
001990 - 001992	Governmental Relations/ Peter E. Knight	Feb. 23, 1994 Letter from Jean Hanson to Rep. Leach
001993 - 001995	Governmental Relations/ Peter E. Knight	Feb. 3, 1994 Letter from Rep. Leach to Roger Altman
001996	Governmental Relations/ Peter E. Knight	Feb. 10, 1994 Letter form Bernard Nussbaum to Rep. Frank Wolf
001997 - 001998	Governmental Relations/ Peter E. Knight	May 4, 1993 Letter from Roger Altman to Rep. Henry Gonzales
001999 - 002000	Governmental Relations/ Peter E. Knight	Mar. 22, 1994 Letter from Stephen D. Potts to Rep. Leach

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002001 - 002020	Governmental Relations/ Peter E. Knight	Mar. 24, 1994 Statement by Rep. Leach before the U.S. House of Representatives
002021 - 002026	Legal/ Ellen Kulka	Mar. 31, 1994 Letter from Rep. Leach to John E. Ryan and Ellen Kulka with attachments
002027 - 002029	Legal/ Ellen Kulka	Mar. 30, 1994 Letter from John E. Ryan and Ellen Kulka to Rep. Leach
002030-002035	Governmental Relations/ Peter E. Knight	Feb. 1, 1994 Letter from Roger Altman to Senator D'Amato w/ enclosed letters
002036 - 002038	Governmental Relations/ Peter E. Knight	Mar. 6, 1994 Letter from Senator D'Amato to Roger Altman
002039 - 002058		Senate Resolution #217

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Madison/Whitewater

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Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.
- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.
- We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.
- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.
- Jean Hanson did check and was told "in due course." I said "fine".

Question:

Why did you brief the White House on those processes?

Answer:

- Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

- Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

- The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

- No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:

Are you a close friend of the Clintons?

Answer:

- I know them well, yes.

Question:

Do you consider yourself a FOB?

Answer:

- Yes, as I understand that term to be used.

Question:

Do you think your relationship with The President should disqualify you from playing any role in Madison?

Answer:

- As I said, I probably won't be playing any role. If I were to play a role my answer would be no. When I was advised that a referral to Justice was likely, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.
- That would be my stance on Madison. If I received a clear recommendation on it from the chief legal officer, I'd follow it.
- I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

6 (con't.)

Question:

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

Answer:

- No.

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

- **We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.**

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

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(202) 225-4247

23

March 1, 1994

RECEIVED
MAR 3 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

The Honorable Roger Altman
Interim CEO
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed is a self explanatory letter to Mr. Bernard Nussbaum et. al. As you know, in my letter of February 3 I had suggested that you recuse yourself from matters pertaining to Madison Guaranty Savings and Loan.

Now, however, based upon your meeting with White House officials on this subject, presumably after receipt of my letter, your resignation from all responsibilities at the RTC appears to be the only ethical option in order.

Sincerely,

James A. Leach
Ranking Member

Enclosure

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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KWEISI MFUME, MARYLAND
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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

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BERNARD SANDERS, VERMONT

(202) 225-4247

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

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BERNARD SANDERS, VERMONT

(202) 225-4247

February 3, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. (See the attached memo.)

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

February 23, 1994

The Honorable James A. Leach
Ranking Member
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515-6050

Dear Mr. Leach:

In your letter to Deputy Secretary Altman of February 3, 1994, you asked him to seek advice from "Treasury's General Counsel and Ethics Office" as to whether he is obligated to recuse himself from decisions concerning the Resolution Trust Corporation's resolution of Madison Guaranty Savings and Loan Association. He has sought such advice from me and from ethics officials of the Resolution Trust Corporation and the Treasury Department.

I understand you to express concern about the possibility that the Deputy Secretary might, as acting Chief Executive Officer of the Resolution Trust Corporation pursuant to the Vacancy Act, 5 U.S.C. 3347, participate in RTC decisions as to whether there are civil claims for RTC to pursue arising from the failure of Madison Guaranty Savings and Loan Association and the expiration of statutes of limitation applicable to any such claims. Your concern seems to stem from the fact that decisions regarding those claims "may touch upon the President" who appointed the Deputy Secretary to his Treasury position. You asked the Deputy Secretary to seek advice from Treasury's General Counsel as to whether he is "obligated to recuse (himself) from any decisions concerning the resolution of Madison Guaranty." I have advised the Deputy Secretary that neither his appointment at Treasury nor his detail to the RTC creates such an obligation.

Your letter suggests that the Deputy Secretary's participation in such decisions would be "structurally unseemly," a conclusion apparently based on the fact that he was appointed by the President and confirmed for a position in a Cabinet department and is acting in a position in an Executive agency that is not such a department. However, the authority pursuant to which the Deputy Secretary is detailed to RTC duties was amended in 1988 precisely so that any Executive agency, such as the RTC, and not just Cabinet departments, could continue to have Presidentially-appointed leadership when circumstances delay filling vacant positions. Pub.L. 100-398, §7(a)(1) and (2), Aug. 17, 1988, 102 Stat. 988.

You also suggest that a structural issue arises from RTC's "public law enforcement responsibilities;" that it would be improper for a Presidential appointee not confirmed for a position at the RTC to exercise those responsibilities. However, the RTC is not a "law enforcement" agency. Its responsibility to pursue civil claims owed to the institutions it takes over is not a "law enforcement" responsibility. In fact, RTC's claims collection responsibility is more analogous to the responsibility of the head of every Executive agency to collect claims of the United States that arise from the agency's activities or are referred to it. 31 U.S.C. 3711. The differences between the Deputy Secretary's claims collection responsibilities at Treasury and at the RTC raise no "structural" concern regarding his performance of those responsibilities at the RTC.

Even if the RTC were in some special sense a "law enforcement" agency, which it is not, absent an exception in the Vacancy Act or another statutory provision creating an exception, the Vacancy Act authorizes filling vacant positions at any "Executive agency (other than the General Accounting Office)." The language of the Act does not distinguish among agencies based on the nature of their functions. Moreover, it would be incorrect to infer the existence of such distinctions. In the one instance of an exception created by the Vacancy Act, Congress has employed language that clearly achieves that objective. The Act expressly provides that its authority to detail Presidential appointees from other agencies does not apply to vacancies in the office of the Attorney General; neither the Vacancy Act nor any other law creates such an exception for the RTC.

Finally, even if there were some basis for reading into the Vacancy Act a principle that only an official confirmed for a position in an agency with law enforcement responsibilities should be detailed to another such agency, the Deputy Secretary's position at Treasury would qualify, rather than disqualify him. Treasury has enormous criminal law enforcement responsibilities, as is amply demonstrated by the significant law enforcement jurisdictions of the Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service and the Internal Revenue Service. Each of those organizations reports through its chain of command to the Deputy Secretary of the Treasury.

You also suggested that Deputy Secretary Altman consult ethics officials. He has done so. I am informed that the RTC's Ethics Officer and Treasury's Designated Agency Ethics Official, in consultation with the Office of Government Ethics, have advised

the Deputy Secretary that he is under no legal obligation to recuse himself from matters at the RTC that "may touch upon the President."

I trust this letter fully addresses your concerns.

Sincerely,

Jean E. Hanson
General Counsel

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

May 4, 1993

Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED
MAY 4 1993
Committee on Banking, Finance
& Urban Affairs

Dear Mr. Chairman:

Thank you for this opportunity to comment on the issue of extending the limitations period applicable to tort claims brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed insured depository institution.

As you know, over a year ago the RTC generally supported legislative efforts to extend this limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes. The RTC, however, survived this critical period of time without missing a deadline. In fact, as of March 31, 1993, the RTC had 220 pending offensive lawsuits involving RTC claims filed in 174 institutions. As of the same date, 120 settlement agreements have been executed, and 11 cases went to final judgment through trial.

In addition, beginning last autumn, the RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed"

0C1887

Honorable Henry B. Gonzalez
Page 2

claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines.

Please let me know if you need any further information.

Sincerely,

Roger C. Altman
Interim CEO

THE WHITE HOUSE
WASHINGTON

February 10, 1994

Dear Congressman Wolf:

Thank you for your letter of January 11, which asks whether public funds are being used to provide the President with legal assistance related to issues surrounding Whitewater Development Corporation and the former Madison Guaranty Savings and Loan.

As I am sure you realize, an investigation affecting a sitting President necessarily requires the official attention of the White House staff, including the Office of the Counsel to the President. For example, the White House has been called upon to respond to various inquiries from members of Congress. Similarly, members of the press have made inquiries to the White House. These inquiries have required responses from the White House, including legal judgments on matters affecting the office of President of the United States.

As you know, however, the President and Mrs. Clinton are represented personally by a private attorney. No public funds are being used to compensate that attorney. Furthermore, no White House staff members are acting as lawyers for the President and the First Lady where there is no official nexus.

Thank you for your interest in this matter.

FEB 15 1994

Sincerely,

Bernard W. Nussbaum
Counsel to the President

The Honorable Frank R. Wolf
Member of Congress
U.S. House of Representatives
Washington, D.C. 20515

RTC News in Brief

Washington, D.C.
Friday, March 4, 1994

Highlights of RTC-related news articles that appeared during the week ending 3/4/94:

- **Treasury Secretary Lloyd Bentsen asked the independent Office of Government Ethics to investigate meetings that took place between Treasury and White House officials on the status of the Madison Guaranty (McCrory, AR) investigation, *The Washington Post, The New York Times, The Wall Street Journal, The Washington Times, USA Today,* and the *Los Angeles Times* reported on March 4. Senator D'Amato's effort to block the confirmation of FDIC nominee Ricki Tigert until hearings are held on the Madison Guaranty/Whitewater matter was also mentioned in the reports.**

- **The RTC's victory in a New York federal appeals court over state rent control restrictions on RTC-controlled apartments in Manhattan was reported in *The Wall Street Journal* on March 3.**

- **The Rose Law Firm's investigation into the billing practices of former partner and now Associate Attorney General Webster Hubbell was reported in *The Washington Post, The New York Times, The Wall Street Journal, The Washington Times, USA Today,* and the *Los Angeles Times* on March 3.**

- **Interim CEO Roger Altman recused himself from taking part in any further actions related to Madison Guaranty (McCrory, AR), *The Washington Post, The Washington Times,* and *The New York Times* reported on February 26, and the *Los Angeles Times* reported on February 27. Mr. Altman's announcement followed his statement at a February 25 Oversight Board hearing before the Senate Banking Committee that he briefed White House officials on the status of the RTC's investigation of Madison Guaranty. The *Post* also reported on this matter on February 28.**

To: James M. Barker@Legal-sc@RTCDC
Cc:
Bcc:
From: Stephen J. Katsanos@Comm@RTCDC
Subject: Contacts with Treasury re. Madison
Date: Wednesday, March 9, 1994 9:46:42 EST
Attach:
Certify: Y
Forwarded by:

Top the best of my recollection, my contacts with the Treasury Department and White House regarding Madison and the Rose Law Firm are as follows.

1) Copies of the Early Bird, a daily summary of stories we anticipate will appear based on our conserversations with reporters, were sent to several individuals at the Treasury Department. Two recipients requested they be sent this publication shortly after Roger Altman was installed as interim CEO. The recipients, who obtain this via fax, are: Roger Altman and Joan Logue-Kinder. Altman's request was through Logue-Kinder. Jean Hanson's office on October 4, 1993, requested that she be added to the daily fax list for the Early Bird. These individuals also were sent our News in Brief each Friday afternoon. This is a one page summary of RTC stories that have been published during the week.

2) Jack DeVore, former press director at Treasury, on October 1, 1993, called me, according to a telephone message slip. I assume Jack was returning my call, which I believe would have related to a call to me on September 30 from Sue Schmidt of the Washington Post. Sue was trying to follow several leads regarding potential conflicts in the use of the Rose Law Firm, including the involvement of Web Hubbel, and suggestions that a criminal referral relating to Madison was being held up in Washington. My call to Jack was to advise him that it appeared Sue was preparing a story that would suggest improper handling of a field investigation, attributable to unnamed RTC sources. I told him that the interim CEO should be prepared for such a story. I had another conversation with DeVore, I believe following Sue Schmidt's visit around October 13 to the home of one of our investigators in Kansas City. Jack had called regarding procedures normally followed in the handling of a criminal referral. Specifically, is a referral made by Washington or a field office.

3) Joan Logue-Kinder called, I believe late October after DeVore left the Treasury Department. She had wanted a "heads up" on reporters queries concerning the Rose Law Firm and Hillary Clinton, but suggested they not be identified in the Early Bird. She also instructed me to call Lisa Caputo at the White House to discuss Sue Schmidt's interest in Hillary Clinton. She gave me Caputo's phone number and said it would be good to keep her informed.

4) Called Lisa Caputo per Logue-Kinder's instructions. Told her Sue Schmidt was interested in knowing if Hillary Clinton had ever attended meetings involving RTC lawyers, Rose Law firm, concerning Madison. Caputo indicated she knew Sue and was surprised Sue had not called her directly.

5) Howard Schloss of Treasury called I believe on February 15 and directed me to refrain from mentioning Interim CEO Roger Altman in Early Bird items relating to Madison because of risk that the Early Bird might make it into hands of people who shouldn't see it. Told Schloss: he was not in a position to give me orders. Early Bird was initiated as a vehicle for informing RTC

senior management of stories we believe reporters will eventually run with. Altman is Interim CEO and as long as he serves in that capacity it is my job to inform him of media activities. Schloss said he would get a memo rolling that would give me instructions from Altman.

Firm and Hillary Clinton excluded
following SueSc

To: Ellen B. Kulka@Legal-sc@RTCDC
Cc:
Bcc:
From: Stephen J. Katsanos@Comm@RTCDC
Subject: ABC
Date: Wednesday, March 9, 1994 12:14:03 EST
Attach:
Certify: N
Forwarded by:

ABC plans to run their story tonight regarding the alleged request to you from Roger Altman to brief the President's private lawyers on Madison related matters. I mentioned to you earlier that the reporter on this claims that ABC has spoken with Altman on this on a "background" basis and claims to have been told by Roger that you could "clear up any misunderstanding" about what he intended regarding this alleged request. ABC now claims that they have this request confirmed by another source and will run with the story tonight. They would like to interview you on this. However, absent agreement to an interview, they will say that you, through a spokesman, said that Altman, the CEO, is your client and as such any conversations are protected by attorney client privilege. I told them I would prefer they not use that phrasing and suggested instead that they say you believe as general counsel you feel any conversations you may have with RTC officials relate to the RTC's business and would be inappropriate for you to discuss with the press. They prefer the attorney/client privilege soundbite.

If you would like to talk with them, now is the time. Arim Rosten is at 887-7300. I would like to know if you call. If you want me to try for another response, let me know. I have suggested, as I have in the past, that if they believe such a conversation took place, the person to talk to to properly understand intent is the one who allegedly made the request, Roger Altman.

To: Ben Nye

From: Peter E. Knight

Re: Memorandum relating to meetings with Congressional offices relating to Madison Guaranty

Date: March 3, 1994

Attached to this memorandum is a list of meetings with Congressional staff relating to Madison. The meetings with Rep. Leach's staff dealt with document requests, and the RTC's parameters in dealing with requests from an individual member of Congress.

The January 24 meeting with Senator D'Amato's staff is covered accurately in Jean Hanson's draft memorandum to Deputy Secretary Altman, but, after discussing this with Jack Ryan, I believe the following points should be added to put it in perspective.

The meeting with the Senator's staff dealt primarily with how the RTC would handle the Senator's investigation and any resulting document requests. It is common practice at the RTC to have such a meeting with congressional staff as it is embarking on an investigation of RTC-related matters. We made the point that his requests would be treated as a request from an individual Senator, and not as an official Committee investigation. Within in the course of this discussion, we covered such concerns as not violating the Privacy Act, not compromising pending civil or criminal matters. I would not characterize the meeting as a briefing on the status of the Madison civil investigation.

cc: Jack Ryan
Ellen Kulka

3-5-94 - to File: Pursuant to Ellen Kulka's recommendation. This was not sent. She said she spoke w/ Jean Hanson on 3/4 + indicated my concerns about possibly misrepresenting the 1/24 meeting — Ellen told me Jean agreed.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 3, 1994

MEMORANDUM TO: Peter Knight

MEMORANDUM FROM: Casey Carter CMC

SUBJECT: Meetings with Congressional Offices Regarding Madison Guaranty

The RTC has had the following meetings with congressional offices relating to Madison Guaranty Savings and Loan as of March 3, 1994. These discussions primarily involved broad or specific document requests.

Date	Cong. Office	Cong. Staff	RTC Staff
December 23, 1993	Cong. Leach	Tony Cole Joe Seidel John Scharfenberg Margo Tank	Peter Knight Bill Collishaw Casey Carter
December 27, 1993	Cong. Leach	Joe Seidel	Peter Knight Casey Carter
December 30, 1993	Cong. Leach	Mike McGarry	Bowen Hinton
January 5, 1994	Cong. Leach	Joe Seidel John Scharfenberg Mike McGarry Margo Tank	Peter Knight Carl Gamble Jack Binkley Phil Lindermuth Steve Primrose
January 24, 1994	Sen. D'Amato	Howard Mennell	Jack Ryan Peter Knight
January 31, 1994	Sen. D'Amato	Doug Nappi	Peter Knight Jack Binkley Casey Carter Steve Primrose
February 28, 1994	Cong. Leach	Joe Seidel Mike McGarry John Scharfenberg	Peter Knight Tom Hindes

801 17th Street, N.W. Washington, D.C. 20434

FAX TRANSMITTAL

1789

Office of the General Counsel
DEPARTMENT OF THE TREASURY
1500 Pennsylvania Ave., N.W., Room 3000
Washington, DC 20220
***Telephone:* (202) 622-0287**
***FAX:* (202) 622-2882**

DATE: 3-2-94

TO: Peter Knight

PAGES TO FOLLOW: 2

FROM: Jean Hanson

SUBJECT: ______________________

Addressee FAX No.: 416-2452 **Confirmation No.:** __________

Notes and Special Instructions:

Peter:
Please confirm that the attached reflects our conversation

DRAFT

MEMORANDUM FOR DEPUTY SECRETARY ALTMAN

FROM: JEAN E. HANSON

SUBJECT: Conversation with Peter Knight

Peter Knight had not had an opportunity to prepare a chronology of RTC contacts with Senator D'Amato's staff. However, he gave me the following information which I am asking him to confirm.

Monday, January 24, 1994

- Peter Knight was contacted by Senator D'Amato's staff to discuss the Madison Guaranty situation. A meeting was requested with the heads of PLS and investigations; that was declined. This was the first contact from D'Amato's staff on Madison Guaranty.
- Later that day, Jack Ryan and Peter Knight met with Senator D'Amato's staff as requested.
    - D'Amato's staff present were: Howard Munnell, staff director; Ray Natter, general counsel; and Doug Nappi.
    - The discussion focused on document production, *i.e.*, what the RTC believed could and could not be provided.
    - There were also a discussion of the statute of limitations on Madison Guaranty and when it was expected to expire. Ray Natter suggested that the statute of limitations would not expire until August 1994. He was told the RTC would look into that and discuss it further with him.
- Later that week (Wednesday - Friday, January 26-28)
    - Peter Knight held a conference call with Mark Gabrellian of the RTC legal staff and Ray Natter to discuss the expiration of the statute of limitations. After discussing the legal issues, Mr. Natter agreed that the statute of limitation on Madison Guaranty would expire prior to August. The exact date of the expiration had a three day time span (2/28 - 3/2) because of historical actions in connection with

DRAFT

Madison Guaranty's takeover. February 28 was the most conservative date (and therefore most cautious, from the RTC's point of view).

- Later that week (Wednesday - Friday, January 26-28) or the following Monday, January 31.
  - Peter Knight, Jack Bankley and Casey Carter met with Senator D'Amato's staff to discuss the general process of document production.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 3, 1994

MEMORANDUM TO: Peter Knight

MEMORANDUM FROM: Casey Carter CWC

SUBJECT: Meetings with Congressional Offices
Regarding Madison Guaranty

The RTC has had the following meetings with congressional offices relating to Madison Guaranty Savings and Loan as of March 3, 1994. The discussions h[illegible] primarily ~~revolved~~ ~~[illegible]~~ involved broad or specific document requests.

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January 31, 1994	Sen. D'Amato	Doug Nappi	Peter Knight Jack Binkley Casey Carter Steve Primrose
February 28, 1994	Cong. Leach	Joe Seidel Mike McGarry John Schafenberg	Peter Knight Tom Hindes

To: John E. Ryan@CEO@RTCDC
Ellen B. Kulka@Legal-sc@RTCDC
Thomas L. Hindes@Legal-pls@RTCDC
Mark Gabrellian@Legal-pls@RTCDC
Peter E. Knight@OGR@RTCDC
Cc:
Bcc:
From: April A. Breslaw@Legal-pls@RTCDC
Subject: Congressman Leach's statement
Date: Thursday, March 24, 1994 17:43:33 EST
Attach:
Certify: N
Forwarded by:

As you may know, Congressman Leach made a statement regarding the so-called "Whitewater" affair on the floor of the Congress today. At one point, he made specific reference to me. I want you to know that I categorically deny making the statement which he attributed to me. Mr. Leach said:

> On February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney April Breslaw visited the Kansas City Office and said that Washington would like to say that Whitewater caused no losses to Madison.

I have never met Mr. Altman. I did not know that he was briefing the White House on February 2, 1994. On that date, I had not met either Ms. Kulka or Mr. Ryan. I did not say that anyone from Washington "would like to say" anything.

I would note that Ms. Lewis purports to be a "criminal" investigator. As such, she may not understand that in order to pursue a civil case, the plaintiff must be able to demonstrate that it sufferred a loss. (Of course, if a criminal defendant is shown to have caused monetary loss, he or she may be sentenced to make restitution if he or she is convicted. In that sense, "loss" is relevant to criminal matters.)

In any event, I met with Ms. Lewis briefly to see if she could shed some light on this element of the civil investigation. At the time, she seemed nervous and uncomfortable about the fact that her criminal referrals do not resolve the loss issue. She could not answer the main questions that I asked: What was the ending balance of the Whitewater checking account? Was it left in overdraft status, which would have meant that a loss occurred?

It's my opinion that the defensive, political slant to her statement is simply an effort to draw attention away from her embarrassment over failing to document a key element of the investigation.

If at all possible, I request that the RTC issue a statement which clarifies the fact that I am not a political appointee, that I did not act at the request of political appointees, and that I categorically deny making the statements attributable to me. Thank you for considering my request.

To: ✓John E. Ryan@CEO@RTCDC,✓Ellen B. Kulka@Legal-sc@RTCDC
✓James M. Barker@Legal-sc@RTCDC
✓Peter E. Knight@OGR@RTCDC/✓Jack M. Buckley@OES@RTCDC
✓April A. Breslaw@Legal-pls@RTCDC
Gregg H.S. Golden@Legal-lit@RTCDC On Travel [illegible] be back Thurs
James J. Igo@Legal-pls@RTCDC Sick Leave
✓Terry S. Arbit@Legal-pls@RTCDC
✓Steve S. Primrose@OGR@RTCDC
✓Wilma H. Lekan@Legal-sc@RTCDC
✓Sharon D. Hume@Legal-sc@RTCDC
✓Margaret L. Lunsford@Legal-sc@RTCDC
Mary D. Hopkins@Legal-lit@RTCDC Sick Leave
✓Meg J. Kruse@CEO@RTCDC
Cc:
Bcc:
From: Thomas L. Hindes@Legal-pls@RTCDC
Subject:
Date: Tuesday, March 8, 1994 11:00:16 EST
Attach:
Certify: Y
Forwarded by: Thomas L. Hindes@Legal-pls@RTCDC

Forwarded to: ✓ Stephen J. Katsanos@Comm@RTCDC
cc:
Forwarded date: Tuesday, March 8, 1994 13:03:27 EST
Comments by: Thomas L. Hindes@Legal-pls@RTCDC
Comments:

Steve,

I should have included you on the list for this e-mail. Please let me know if you have any responsive documents. Thanks.

-------------------------- [Original Message] --------------------------

Interim CEO Roger Altman has forwarded to the RTC a copy of a Grand Jury subpoena he received, requiring the production of certain specified documents. The nature of the request is such that the recipients of this e-mail are believed to be the only persons at the RTC who might be in possession of responsive documents. To summarize, the subpoena requires the production of documents "referring or relating to any contacts, meetings or conversations about or regarding Madison Guaranty. . . held between or among" White House or Hillary Rodham Clinton staff and Treasury or RTC employees. In short, they are looking for documents that in any way discuss or refer to meetings that may have been held between White House personnel and anyone from DOT or RTC. The most obvious -- and the only known examples of any such documents -- would be certain "Q & A" materials prepared in connection with the Senate Banking Hearing on February 24. We do not intend to limit our search to those "Qs & As", however, and if anyone has any knowledge of other responsive documents, interpreting the request in the broadest possible terms, please let me or Jim Barker know ASAP. If you have any questions about the interpretation of this request, again call Jim or myself. If you think there might be anyone else who should receive this request -- the recipients are people who participated in some fashion in preparing the Senate testimony and the Q & A responses -- please let me know.

The return date on the subpoena is Thursday morning, March 10, and we need to pull our documents together very quickly. Margaret Lunsford is going to collect and organize this data, and I would request that you place any responsive documents in your possession in a file folder and deliver them to Margaret. Her office is in the General Counsel's suite, 10th flocr, 801 17th. Please try to complete this process by the end of the day. If for some reason you cannot complete this task by the end of the day, please so inform me. Thank you.

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

March 7, 1994

Ms. Ellen Kulka
General Counsel
Resolution Trust Co.
801 17th Street, NW
Washington, D.C. 20434

Dear Ellen:

Attached is a copy of the subpoena which I received last Friday. I would appreciate it if you would forward to me any documents which would be covered by this.

Thanks.

Sincerely,

Roger C. Altman

CO 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

United States District Court

for the DISTRICT OF Columbia

TO: Roger Altman
Deputy Secretary of the Treasury

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:
☒ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	COURTROOM
United States District Court for the District of Columbia United States Courthouse Third and Constitution Avenue, N.W. Washington, DC 20001	Grand Jury Third Floor
	DATE AND TIME March 10 1994 10:00 a.m.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

See attached rider.

☐ *Please see additional information on reverse.*

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

U.S. MAGISTRATE OR CLERK OF COURT Nancy M. Mayer-Whittington, Clerk	DATE 3/4/94
(BY) DEPUTY CLERK	
This subpoena is issued upon application of the United States of America mjs	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY Roderick C. Lankler Office of the Independent Counsel 1001 Pennsylvania Avenue, N.W. Suite 490N, Washington, DC 20004 (202) 514-8723

*If not applicable, enter "none."

*U.S. GPO:1993-0-360-732/80398

622-1070
Altman ⇒

Curnin
Beatti
— Simpson, Thatcher
(212) 455-2579

SUBPOENA RIDER

A. Any and all documents and/or communications referring or relating to any contacts, meetings or conversations about or regarding Madison Guaranty Savings & Loan, its subsidiaries or affiliates, held between or among 1) any member of the White House staff or the staff of Hillary Rodham Clinton, including but not limited to Lisa Caputo, Mark Gearan, Harold Ickes, Bruce Lindsey, Bernard Nussbaum or Margaret Williams; and 2) any official or employee of the Department of the Treasury or the Resolution Trust Corporation, including but not limited to Roger Altman, Jack DeVore, Jean Hanson, or Josh Steiner. This includes, but is not limited to any documents and/or communications:

1. referring or relating to the arrangement, existence, substance or circumstances of any such meetings or conversations;
2. discussed or referred to in any such meetings or conversations;
3. exchanged between any member of the White House staff or the staff of Hillary Rodham Clinton, and any official or employee of the Department of the Treasury or the Resolution Trust Corporation at or in connection with any such meetings or conversations;
4. constituting notes taken at or referring to any such meetings or conversations;
5. summarizing, documenting or referring to all or any part of any such meetings or conversations.

B. Any and all documents and/or communications referring or relating to any criminal referrals made by the Resolution Trust Corporation about or regarding Madison Guaranty Savings & Loan, its subsidiaries or affiliates.

Definitions and Instructions

1. Definitions

a. The term "document" or documents" as used in this subpoena means all records of any nature whatsoever within your possession, custody or control or the possession, custody or control of any agent, employee, representative, or other person acting or purporting to act for or on your behalf or in concert with you, including but not limited to memoranda, records, reports, notes, books, files, summaries or records of conversations, meetings or interviews, summaries or records of telephone conversations, diaries, calendars, datebooks, telegrams, facsimiles, telexes, telefaxes, electronic mail, computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment, including but not limited to floppy disks or diskettes, disks, diskettes, disk packs, fixed hard drives, removable hard disk cartridges, mainframe computers, Bernoulli boxes, optical disks, WORM disks, magneto/optical disks, floptical disks, magnetic tape, tapes, laser disks, video cassettes, CD-ROMs and any other media capable of storing magnetic coding, microfilm, microfiche and other storage devices, voicemail recordings, and all other written, printed or recorded or photographic matter or sound reproductions, however produced or reproduced.

The term "document" or "documents" also includes any earlier, preliminary, preparatory or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final document.

b. The term "communication" or "communications" is used herein in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposals, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone or by means of electronic or other medium.

c. "Possession, custody or control" means in your physical possession and/or if you have the right to secure or compel the production of the document or a copy from another person or entity having physical possession.

d. The term "referring or relating" to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject including, but not limited to, documents concerning the preparation of other documents.

2. Instructions

a. If any original document cannot be produced in full, produce such document to the extent possible and indicate specifically the reason for your inability to produce the remainder.

b. Documents shall be produced as they are kept in the usual course of business, as organised in the files.

c. File folders, labels and indices identifying documents called for shall be produced intact with such documents. Documents attached to each other should not be separated.

d. The originals of all documents and communications must be produced, as well as copies within your possession, custody or control.

e. In reading this rider, the plural shall include the singular and the singular shall include the plural.

f. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "including" shall be construed without limitation.

g. In the event that any document called for by this subpoena is withheld on the basis of any claim of privilege or similar claim, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) any indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, has been disclosed, distributed, shown or explained; and (k) present custodian. Each basis you contend justifies the withholding of the document shall also be specified. With respect to those documents or records as to which you may claim privilege, or attorneys' work product, set forth as to each such document the basis for such claim, the identity of each person who has been privy to such communication reflected in the document and whether you will submit the document to the Court for an _in camera_ determination as to the validity of the claim.

i. In the event that any document called for by this subpoena has been lost, destroyed, deleted, altered, or otherwise disposed of, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, had been disclosed, distributed, shown or explained; (k) the date of the loss, destruction, deletion, alteration or disposal and the circumstances thereof; (l) the reasons, if any, for the loss, destruction, deletion, alteration or disposal and the person or persons responsible.

j. If any information or data is withheld because such information or data is stored electronically, it is to be identified by the subject matter of the information or data and the place or places where such information is maintained.

RTC

Resolution Trust Corporation

Office of Governmental Relations
Washington, DC 20434-0001
(202) 416-7564

FAX COVER SHEET

FAX NO. (202) 416-4690 [ ]
416-2452 [x]
416-2249 [ ]

DATE: __________

TO: Tom Windes

PHONE NO. __________ **FAX NO.** __________

FROM: ~~Peter Knight, Director~~ Casey Carter

MESSAGE: __________

Number of pages including cover sheet: 7

IF THERE ARE ANY PROBLEMS, PLEASE CALL (202) 416-7509

U.S. SENATOR

Al D'Amato News Release

NEW YORK

Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Thursday, March 3, 1994

CONTACT: Frank Coleman
(202) 224-6498

REPUBLICANS DEMAND HEARING ON SECRET WHITE HOUSE BRIEFING

D'AMATO, DOLE LEAD 43 IN BLOCKING CLINTON 'PAL' FOR FDIC POST

WASHINGTON -- U.S. Senator Alfonse D'Amato (R-NY) and Minority Leader Robert Dole (R-KS) today announced Republicans are blocking the nomination of Ricki R. Tigert to head the Federal Deposit Insurance Corporation (FDIC) until the Banking Committee holds hearings on the secret Whitewater briefing given by the acting head of the Resolution Trust Corporation (RTC) to top White House staffers.

The GOP position was outlined in a letter to Majority Leader George Mitchell, signed by 43 GOP Senators, citing the "heads up" briefing acting RTC head Roger Altman gave about the agency's supposed independent investigation of Madison/Whitewater to White House Counsel Bernard Nussbaum, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Jean Hanson.

Calling the meeting "highly improper," the letter said it raised serious questions about the alleged independence of the RTC's investigation and the interference of senior White House political operatives in a regulatory matter.

"The American people deserve to have confidence that the RTC conducts its business in an independent and impartial fashion," the Senators wrote. "A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting."

The disclosure of the secret "heads up"--as Altman called it--about the status of the agency's investigation into the Madison Guaranty collapse came at an RTC oversight hearing last Thursday in the Senate Banking Committee.

Despite all evidence to the contrary, the White House has continued to maintain that the briefing was proper and that the same briefings were provided to Congress and the press.

Forty-one Senators is the number needed to effectively prevent action in the chamber.

A copy of the text of the letter is attached.

-fc030294-

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
RICHARD H. BRYAN, NEVADA
BARBARA BOXER, CALIFORNIA
BEN NIGHTHORSE CAMPBELL, COLORADO
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

ALFONSE M. D'AMATO, NEW YORK
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LAUCH FAIRCLOTH, NORTH CAROLINA
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PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

March 2, 1994

The Honorable George J. Mitchell
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

We are writing to inform you that we will object to any agreement seeking consent to proceed to the nomination of Ricki R. Tigert, President Clinton's nominee to chair the Federal Deposit Insurance Corporation, until the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings and Loan.

As you know, the Acting Chief Executive Officer of the RTC, Roger Altman, recently disclosed that he sought a meeting with White House officials to give them a "heads-up" on the RTC's investigation. Needless to say, such a meeting is highly improper and raises very real questions about Mr. Altman's impartiality and the alleged independence of the investigation. Specifically, why were Harold Ickes and Margaret Williams present, in addition to White House Counsel Bernard Nussbaum? According to the Washington Post, Mr. Ickes the Deputy Chief of Staff, is responsible for Whitewater "damage control". Ms. Williams, Chief of Staff for Mrs. Clinton, had previously participated with Mr Nussbaum in searching Vincent Foster's office and sending all or some of the materials to David Kendall of Williams and Connally who is representing the President and Mrs. Clinton.

We believe public hearings are required to explore these and other questions involving the attendance of political operatives at the White House in briefings by the head of a supposedly independent agency on matters that have nothing to do with the Executive Office of the President.

We regret having to delay the Senate's consideration of Ms. Tigert's nomination. Nevertheless, the American people deserve to have confidence that the RTC conducts its important business in an independent and impartial fashion. A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting.

Sincerely,

OPENING STATEMENT OF SENATOR ALFONSE M. D'AMATO
HEARING ON REGULATORY CONSOLIDATION

March 3, 1994

Mr. Chairman, we have worked together, and our staffs have worked together, in a bipartisan effort to restructure the current bank regulatory system. I enthusiastically joined with you in this effort because we share the goals of streamlining regulation of the banking system and assuring the independence of the bank regulators.

MR. CHAIRMAN, I KNOW YOU AGREE THAT **Independence is the bedrock principle that any consolidation proposal must be based upon. In this climate of conern about the integrity of our financial system, it is absolutely essential that the public have complete confidence in our independent bank regulatory system. My confidence and the trust of the American people in this independence was jolted last week by the revelations about White House interference with the RTC investigtion of Madison Guaranty. Today, we learn from the Washington Post that there have been** at least two **previous undisclosed meetings between White House staff and Treasury and RTC** officials. This time the meetings were about ~~involving~~ the criminal referrals that were made to the Justice Department by the RTC.

Mr. Chairman, in this climate of concern about independence, I was shocked to discover provisions buried in the Adminstration bill that would make the proposed Federal Banking Commission a puppet of the White House.

As I pointed out yesterday, under the Administration's proposal, the Justice Department would have complete control over the new banking agency's litigation authority. Section 304 of the bill, says: "litigation may be conducted only with the prior consent of the Attorney General of the United States and subject to the Attorney General's direction and control." How in the world can the Federal Banking Commission be the cop on the beat when ~~Janet Reno and~~ Hillary Clinton's friends at Justice, like Webster Hubbell, have all the guns?

In addition to requiring Justice Department approval over all litigation, the Administration's bill would also prevent the new bank regulator from even proposing a regulation, submitting testimony, or providing legislative recommendation without the prior approval of the White House Office of Management and Budget.

If the Administration's bill were the law today, the RTC could not sue to recover money from anyone who defrauded Madison Savings and Loan without Justice Department approval and the FDIC could not testify about Whitewater without the blessing of the White House. Its hard enough for the American people to learn the facts and be assured the agencies are applying the laws impartially under current law, But imagine if these agencies were directly under the political thumb of the White House.

How can we expect the American people to entrust Janet Reno to make decisions on bank litigation? Or, how can we tell them, that Webster Hubbell, himself under scrutiny by his old law firm, will make these decisions?

I believe in the need to consolidate bank regulatory agencies. But I believe more strongly in the principle of independence. If the Administration does not agree with this principle, I seriously doubt any legislation will emerge from this Committee. If the Administration does agree, than I am encouraged by the comments of the Chairman, the Secretary of the Treasury, the Chairman of the Fed, and our colleagues that we can improve the structure of bank regulation. But if their idea of independence is to put Janet Reno, Web Hubbell and other Clinton cronies in control of the nation's banking system, I will fight them tooth and nail.

Mr. Chairman, in today's climate, these provisions in the Administration's proposal are outrageous. They are shocking, and they are wrong. You and I know it, and the American people know it.

MR. CHAIRMAN, YOU HAVE ANNOUNCED THAT YOU WANT TO MARKUP A BILL LATER THIS MONTH. I AGREE ~~BUT~~ AND WE WILL CONTINUE TO WORK TOGETHER TO ASSURE THAT INDEPENDENCE IS A BENCHMARK OF OUR CONCOLIDATION EFFORTS.

WHITEWATER/MADISON: CONVERSATIONS WITH THE WHITE HOUSE

Question:

Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

Answer:

POSSIBLE ANSWERS BY MR. ALTMAN ON WHITEWATER/MADISON QUESTIONS POSED BY THE OVERSIGHT BOARD

1. Secretary Altman, why have you failed to recuse yourself thus far from the RTC's work relating to Madison Guaranty? How many discussions have you had concerning Madison and related matters?

I have conferred with the appropriate Ethics Officers and have been advised that I am not required under applicable ethical standards to recuse myself. I have had several discussions concerning Madison relating to the procedures to be followed and the nature of legal issues raised. No discussions in which I have been involved up to this time have included specific analyses or reports on the matters raised in Madison other than what I have described.

(Mr. Altman may decide no response is appropriate but the foregoing constitutes one approach if he chooses to respond.)

2. Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

It is my understanding that any other involvement by Treasury personnel has been solely with respect to the process being followed and has not dealt with substantive issues.

3. Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

---

4. Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison County?

Consistent with past practices, the RTC has discussed the release of information that the Justice Department believes may hamper or affect its investigation of matters in which the RTC has information or an interest.

5. Secretary Altman, has the RTC investigated the Rose law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC? Have you recused yourself from this matter?

The RTC does not describe or respond to questions concerning specific investigations that it may be undertaking.

6. Secretary Altman, has the RTC been in contact with the Independent Counsel Robert Fiske? Have you participated in these conversations?

I understand that there have been several telephone conversations with Mr. Fiske and his staff and members of RTC's Legal staff. I have participated in no such discussions.

7. Why has the RTC taken the position that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information? Isn't it true that there is a certain amount of flexibility in interpreting the law regarding this question? Mr. Altman, were you involved in this decision? Were any other Treasury officials involved in this decision?

The RTC has taken the position that requests for information from individual Members of Congress have the same standing as FOIA requests and are subject to the same exceptions. There is no credible legal theory or authority to the effect that the law is otherwise. Providing privileged information to an individual Member of Congress would likely waive all applicable privileges and could also result in other violations of FOIA. Our position is consistent with that of other agencies and of the Department of Justice. We are most concerned that we take no steps which would impair our ability to carry out our responsibilities or violate relevant law. At the same time, we have provided individual Members of Congress with significant amounts of documentation and information within the limitations which I have described and we will continue to cooperate to the fullest extent possible. The decisions made with respect to information which may appropriately be shared have been made by the staff of the RTC in accordance with normal procedures.

8. Could you provide for the hearing record all documents relating to the RTC's investigations of civil or criminal matters relating to Madison?

Providing this information at a time when both civil and criminal investigations are ongoing would pose a substantial risk that these investigations could be compromised.

9. How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee?

In accordance with the requirement under the law that it is the RTC and not the Oversight Board that makes determinations on specific cases and based on the concerns expressed in my responses to other requests for specific information, I believe that a substantive response would not be appropriate.

10. Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

While a response in-depth concerning the actions taken by the RTC in connection with Madison must await a later date, let me review several significant events. The original statute of limitations for Madison civil claims expired on the three-year anniversary of the appointment of a receiver in early 1992. Before that point, there was a civil claim pursued first by FDIC and then the RTC against Madison's former auditors; this case was originally filed by Madison prior to its failure and was successfully settled. Certain other litigation was also pursued. Despite the fact the statute of limitation for civil claims had expired early in 1992, the RTC has continued to assess Madison, as well as other institutions as to whether criminal referrals should be made since the limitations period for criminal charges is longer. It was only the middle of December 1993, that the statute of limitations was renewed with respect to a limited class of civil actions. As you know, Congress last week extended the statute of limitations which would otherwise have expired institution by institution on dates from early in 1994 onward, to December 31, 1995.

11. Secretary Altman, last year you sent a letter to this committee indicating that the RTC had never missed a statute of limitations deadline, and that therefore an extension of the statutes was not necessary. Apparently no civil suits against directors, officers, or law firms involved with Madison were brought. Does this mean that the Madison situation was reviewed and that a decision was made at some point in the past that a suit would not be brought? When was this decision made?

For all the reasons described above, it is not appropriate to discuss an individual case with the Board at this time.

POSSIBLE ANSWERS BY MR. ALTMAN

Statute of Limitations Extension (from the RTC Completion Act):

The RTC has embarked on a program to review the disposition of claims and close out decisions at institutions affected by the Completion Act statute of limitations extender, as further amended on February 11, 1992. At the time the program was commenced, Congress had not acted to provide an extension of the statute of limitations through December 31, 1995. As a result, the Legal Division will be developing additional protocols to determine the priorities to be followed in such review given the time available.

PLS:

a. As you know, we have a new General Counsel who joined us in the middle of January upon whom I am depending to enhance the management of the PLS Section. I have advised her that this is a matter of the highest priority. Part of the approach that is being undertaken is a merger of the staff of the RTC PLS Section with the staff of the FDIC. This is being done in a manner that will address the management issues that have been raised.

b. The General Counsel of the RTC had advised me that she will be making the appropriate designation shortly.

What Conversations Have You Had with the White House on this Matter?

I've had on substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course." "I said fine".

Why did you brief the White House on those processes?

Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Who else attended that meeting?

Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Were there any other conversations at all?

The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Has the White House attempted to influence your decision on these matters?

No. It is understood that the RTC must complete the task that it has been given and, of course, the White House respects the independence of the RTC.

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

No.

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

We discussed only the broad procedural framework fl the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be, discussed.

Ricki Tigert chose to recuse herself. You didn't, what's different about the two cases?

I can't comment about Ricki Tigert's decision. I haven't discussed it with her. I don't know the FDIC procedures which pertain to it. It's not my role to speculate on her decision.

Are you a close friend of the Clintons?

I know them well, yes. Am I one of their very closest circle? No.

Do you consider yourself a FOB?

Yes, as I understand that term to be used.

Do you think your relationship with the President should disqualify you from playing any role in Madison?

As I said, I won't be playing any role and the question is moot, if I were to be playing a role my answer would be no. When the issue of referring this to Justice arose, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.

That would be my stance on Madison. If I received a truly clear recommendation on it from the chief legal officer, I'd almost certainly follow it.

I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

02/17/94
6:49pm

DRAFT
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Answer:

R. Altman.

Questions

1) When did Madison Guaranty collapse?

2) Tell us about the federal oversight of Madison before the collapse.

3) When did the RTC first turn its attention to Madison?

[date — Closeout Memo]

4) Who in the RTC was involved at the beginning?

5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

6) When did the Madison matter first come to the attention of the RTC's Washington office?

7) Why was the status of limitations in this matter originally permitted to lapse?

Claims Closed / Based on Cost effectiveness ?/

8) Who made the decision to permit that?

Beatty + Dudine

X 9) Why did the Clinton Administration oppose a retroactive extension of the status of limitations in the RTC Completion Act?

X 10) Did Madison Guaranty matters enter into that decision?

11) Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline?

Completing investigation after RTC Completion Act

Igo

12) What were the internal RTC processes which led to the decision in October to refer this to the Justice Department?

13) Who was involved in that decision?

— RTC Investigations —

14) What is the RTC doing at this very moment to reach a decision on a civil claim?

Reviewing documents, checking assets [illegible]

15) Who at the RTC is doing that work?

Inside Staff, Pillsbury

16) When will a decision be reached?

At completion of the investigation

17) Tell us about the documents which the RTC provided to Mr. Fiske.

[Terry/Pittley / Rose Firm Documents / empty [illegible] / K. City documents

18) What is the RTC doing to get those documents back?

RTC made copies of everything

19) How could the RTC make its decision without access to those documents?

Possibly could not

X 20) What discussion with RTC staff have you personally had on Madison?

X 21) What discussions on it have you had with Secretary Bentsen?

X 22) What has he said to you about the Madison investigation?

X 23) Have you issued any instructions to RTC staff on this investigation? What were they?

24) What is being done to safeguard the RTC documents on this case?
Locked Room in D.C.

[redacted] 25) Who made the decision to put Madison into conservatorship?
Bank Board

26) Why was McDougal permitted to loot the institution the way he did?
OTS / FSLIC

27) Wasn't that a dereliction of oversight? Who was responsible?

X 28) Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

29) Have they acted in an ethical fashion?

30) Aren't there, at the very least, appearances of impropriety on their part?
No

31) What should be done if it is ultimately determined that laws were broken?

Tom → 32) Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater? Recap. + Check w Tony

33) Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation? No

X 34) Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

35) Will the Oversight Board play any role at all in RTC decisions on Madison?
NO

36) If the RTC were to file a claim in court against the Clinton, how would that work? What would the RTC seek, etc.?

R. Altman (9)

Questions

1) When did Madison Guaranty collapse? 7 2/90

2) Tell us about the federal oversight of Madison before the collapse. > OTS

3) When did the RTC first turn its attention to Madison? FDIC FSLIC [illegible] Fund. not yet

4) Who in the RTC was involved at the beginning? FDIC legal

5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

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18) What is the RTC doing to get those documents back?

19) How could the RTC make its decision without access to those documents?

Can you make decision w/o information

Dallas wiretapping > Rose Law FIRM.

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X 21) What discussions on it have you had with Secretary Bentsen?

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Q: Altman

R. Altman ⑩

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5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons? Only in the crim. referrals

6) When did the Madison matter first come to the attention of the RTC's Washington offices? ? first referral & then 2d group

7) Why was the statute of limitations in this matter originally permitted to lapse? ?

8) Who made the decision to permit that? FDIC — who signed?

9) Why did the Clinton Administration oppose a retroactive extension of the statute of limitations in the RTC Completion Act? ? No longer needed! can t

10) Did Madison Guaranty matters enter into that decision? no Th

11) Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline? Concluded our invest/ sou to

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24) What is being done to safeguard the RTC documents on this case?

25) Who made the decision to put Madison into conservatorship? FHLBB

26) Why was McDougal permitted to loot the institution the way he did? bk FSLIC

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36) If the RTC were to file a claim in court against the Clinton, how would that work? What would the RTC seek, etc.? ?

R. Altman
(11)

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Claim Closed / Based on Cost effectiveness ?/
Who made the decision to permit that?
Beatty + Dudine
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Completing investigation after RTC Completion Act
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Who was involved in that decision?
— RTC Investigations —
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Who at the RTC is doing that work?
Inside Staff, Pillsbury
When will a decision be reached?
At completion of the investigation
Tell us about the documents which the RTC provided to Mr. Fiske.
[Terry Pillsbury / Rose Firm Documents / empty disc/ K. City documents
What is the RTC doing to get those documents back?
RTC made copies of everything
How could the RTC make its decision without access to those documents?
Possibly could not

What discussion with RTC staff have you personally had on Madison?

What discussions on it have you had with Secretary Bentsen? No discussion

What has he said to you about the Madison investigation?

Have you issued any instructions to RTC staff on this investigation? What were they?
Not [illegible] & say – Clear [illegible]

What is being done to safeguard the RTC documents on this case?

Who made the decision to put Madison into conservatorship?

Why was McDougal permitted to loot the institution the way he did? Background FHLBB

Wasn't that a dereliction of oversight? Who was responsible?

Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

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What should be done if it is ultimately determined that laws were broken?

Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater? what's been

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation? professional procedures.

Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC. She hasn't been.

Will the Oversight Board play any role at all in RTC decisions on Madison? No

If the RTC were to file a claim in court against the Clinton, how would that work? What would the RTC seek, etc.?

I don't know – I have been very [illegible] when subpoena process are issued. Even then are you not apprised of these matters. The only way they can be politicized.

How what is the way.

Firm's documents regarding the other legal services it provided to Madison Guaranty are to be produced to the RTC on a rolling basis.

The records initially available, i.e., the records of Madison Guaranty, have not disclosed any connections between the Rose Firm and Whitewater Development Corp. Any such connections will be investigated through the use of the RTC's standard investigative methods, including administrative subpoenas. The Rose Firm also assumed the prosecution of the inherited accountant liability lawsuit against Frost & Company after Madison Guaranty failed.

33) No.

34) deferred to Mr. Altman

35) No.

36) See response to item 5.

Al D'Amato Release
NEW YORK
Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Tuesday, March 1, 1994

CONTACT: Frank Coleman
(202) 224-6498

D'AMATO BLASTS WHITE HOUSE STATEMENTS ON SECRET RTC BRIEFINGS
"PATTERN OF DECEPTION" CONTINUES IN MADISON/WHITEWATER AFFAIR

WASHINGTON -- U.S. Senator Alfonse D'Amato (R-NY) today called for Senate Banking Committee hearings into secret briefings provided by the head of Resolution Trust Corporation (RTC) for senior White House political staff about the agency's investigation of the Madison/Whitewater affair.

D'Amato also charged that since the disclosure of the secret "heads up" was revealed at last Thursday's Banking Committee hearing, the White House was continuing its pattern of deception by suggesting that the same briefings were provided to Congress and the press.

"The White House has now compounded these shocking revelations by stating falsely that Congress and the media also received these briefings," D'Amato charged. "At the time this secret cabal was meeting at the White House, I was speaking out on the Senate floor about the RTC's failure to provide our Committee with any information about its activities on the Madison/Whitewater mess. And I have yet to encounter a reporter covering this story who says he or she was briefed by the RTC, let alone its acting CEO."

D'Amato, senior Republican on the committee, added that the exposure of the secret briefings at a Banking Committee hearing proved that Democrats needed to end their "footdragging" over whether or not to hold hearings.

"Only through a Congressional hearing did we learn of this very real threat to the integrity of the RTC's investigation," D'Amato pointed out. "We have a responsibility to the American people to fulfill our legitimate oversight function.

"The Democratic members of this committee must understand the threat is not Congressional inquiry, but secret, high level off-the-record 'heads-up' meetings between top Administration officials and White House legal and political experts," the Senator stated. The secret briefing, described as a "heads-up" by acting RTC head Roger Altman was presented to White House Counsel Bernard Nussbaum, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Jean Hansen.

Among the questions D'Amato said could be answered by a hearing: Why does White House Counsel Mr. Nussbaum need to be briefed on the RTC's investigation of Madison that does not involve the President in his official capacity? And what about Mr. Ickes and Ms. Williams? Why in the world would these political operatives need to be briefed by a top agency official on an investigation that has nothing to do with the Executive Office of the President? Were any confidential or non confidential RTC or law enforcement documents or other materials used during the briefing?

-fc022894-

NY Times 2/27/94

Slovenly White House Ethics

President Clinton and his helpers keep saying they have nothing to hide on Whitewater. So some evil genie must be making them act as if they do. The latest affront is the boneheaded conclave convened by Deputy Treasury Secretary Roger Altman to give a "heads up" to three White House officials about the Resolution Trust Corporation inquiry into a savings and loan association connected to Mr. and Mrs. Clinton.

Mr. Altman said he wanted to brief Bernard Nussbaum, the White House counsel, Harold Ickes, the deputy chief of staff, and Margaret Williams, the First Lady's chief of staff, on when the statute of limitations would run out on the R.T.C. investigation of Madison Guaranty Savings and Loan.

That is an interesting question and not unrelated to other questions that Republicans on the Senate Banking Committee and other reasonably curious Americans would like to have answered. Here are four:

1. Was Madison used to convert Clinton campaign funds to personal funds for the then Governor?

2. Did a regulator appointed by Governor Clinton go easy on Madison because it was owned by the Clintons' political ally, James McDougal, who was also the Clintons' business partner in the Whitewater Development Company?

3. Did the Clintons pay the same amount of money for their half share of Whitewater that Mr. McDougal paid for his? This question is important because it bears on whether Mr. Clinton, while Governor, received gifts or claimed undeserved tax deductions in connection with Whitewater.

4. Did Mrs. Clinton's law firm behave properly in its dealings with Madison and bank regulators?

Given that such questions are now before a special counsel and the R.T.C., a meeting between Mr. Altman and top White House aides was improper on its face. It could never have taken place in a White House that had even a rudimentary respect for the common-sense rules on conflict of interest. The Clinton team has taken the nation back to the sham ethics of the early Reagan Administration. That crowd believed conflicts of interest could not exist since they could not conceive of letting any law or rule of propriety interfere with the political and financial interests of the President or his buddies.

The stated reason for this meeting will not wash. Information on the statute of limitations could be had from the newspapers or a brief memo from the R.T.C. legal staff. Senator Alfonse D'Amato and Representative Jim Leach therefore have reason to suspect that the goal of the meeting was to control political damage or compromise the R.T.C.'s investigation. Who knows what the White House has learned about the R.T.C. findings? After all, it was only through Mr. D'Amato's efforts that the Government released an R.T.C. document suggesting that Mrs. Clinton's law firm had failed at proper disclosure of its dealings with Madison.

In response to bad publicity, Mr. Altman has recused himself from the R.T.C. inquiry on Whitewater. His R.T.C. deputy should now take over all his duties at the agency until a permanent director is appointed. Senator Donald Riegle, the chairman of the Senate Banking Committee, needs to step up his committee's oversight activities. Other Democrats like Senator John Kerry need to cease their myopic defense of Mr. Clinton on a matter about which neither the Senator nor the public has been fully informed.

Opposition leaders are right when they say that a Republican White House that so recklessly meddled in the Justice Department, the R.T.C. and other agencies would be shelled with endless Congressional investigations. It is time for the Democratic Congressional leaders, Thomas Foley and George Mitchell, to try to educate this White House about the normal protocols of governance. Explaining what Representative Leach meant when he said "arm's length" would be a start.

Clinton aides behave as if their President had deep deposits of public trust. In fact, that account was pretty slim when Mr. Clinton got to Washington, and it is just about tapped out now.

Washington Post 2/26/94

Senior Official Steps Aside in Probe Of S&L Linked to Clintons' Venture

By Susan Schmidt
and Charles R. Babcock
Washington Post Staff Writers

Deputy Treasury Secretary Roger C. Altman, a political appointee serving as temporary chief of the federal thrift cleanup agency, recused himself yesterday from any further action on the investigation of an Arkansas savings and loan with ties to President Clinton and Hillary Rodham Clinton.

Altman announced he was taking the step one day after revealing during congressional questioning that he recently briefed White House officials on how his agency would proceed with potential civil claims growing out of the failure of Madison Guaranty Savings & Loan. Altman's disclosure, under questioning from Republican senators, was criticized as evidence that the White House is improperly interfering in a case that directly affects the Clintons.

Altman also said he will step down as interim head of the Resolution Trust Corp. at the end of March. The administration is expected to nominate a permanent chief soon for the RTC, which by law is supposed to be an independent federal agency. Treasury officials said Altman did not believe the Madison investigation presented a conflict for him but realized there was the appearance of conflict and decided to recuse himself for that reason.

The RTC is disposing of failed S&Ls and pursuing civil and criminal cases against officers, directors, lawyers, accountants, borrowers and others. Hillary Clinton and her former associates at the Rose Law Firm in Little Rock, Ark., represented Madison before state regulators in the mid-1980s.

Altman told the Senate Banking Committee that he contacted White House counsel Bernard Nussbaum about three weeks ago and offered to meet with him to explain what the RTC would do as the deadline for filing civil claims in the Madison probe neared. That deadline was Feb. 28, but Congress has extended it until the end of 1995.

Altman said he met with Nussbaum; Margaret Williams, Hillary Clinton's chief of staff; and the president's deputy chief of staff, Harold Ickes, who has been assigned the task of damage control in the Whitewater probe.

White House officials yesterday defended the meeting. "There's nothing improper about it," said White House press secretary Dee Dee Myers. "He basically informed the White House—as he did Congress, as he did the press. It was strictly a procedural briefing. There was nothing available that was not available to members of the press or Congress."

Altman said he told White House aides during the meeting that if the RTC found a claim was warranted, it would either file a lawsuit or ask potential defendants to voluntarily sign agreements extending the deadline. He said he already had given such information to inquiring Republican members of Congress.

Meanwhile, Rep. Jim Leach (Iowa), the ranking Republican on the House Banking Committee, yesterday released portions of a taped conversation in which the Clintons' former business partner, James McDougal, disputes their accounting of their investment in their joint Whitewater land venture. McDougal said in the 1992 conversation that the Clintons never made a $9,000 interest payment that they claimed on their 1980 federal income taxes and that they used corporate assets to pay off a personal loan.

In a memo to minority committee members, Leach said McDougal's comments "appear to indicate that the Clintons lost no money in Whitewater" and "suggest that the tax consequences which emanate from this venture merit careful scrutiny."

Leach, who has been gathering documents for hearings he plans to hold next month on the Whitewater matter, said in an interview yesterday that he considered McDougal's comments important because, "he is sitting down with book ledgers, which lends it great credibility." The tape was made during a talk McDougal had in the spring of 1992 with Sheffield Nelson, who ran for governor against Clinton in 1990 and was himself an investor in a project financed through the McDougal-owned Madison Guaranty Savings & Loan.

The Clintons claimed in their 1980 federal tax returns that they made $9,000 in interest payments to McDougal related to the Whitewater venture. "They didn't pay me. . . . They have never paid me a penny's interest," McDougal said.

In recent weeks, McDougal has said that he could recall the Clintons putting about $13,500 into Whitewater, not the $68,900 they claimed when the investment became an issue in the 1992 presidential primaries and since.

Referring to the 1992 taped conversation, Bruce Lindsey, a senior White House aide, said yesterday, "I think he [McDougal] is confused. He has said he is relying on his memory with these amounts, and his memory is mistaken."

Lindsey said in an earlier interview that he believed the Clintons paid McDougal $9,000 in 1980 to compensate him for interest he had paid on a joint loan used to finance the Whitewater venture.

Special counsel Robert B. Fiske Jr. is now trying to sort out Whitewater's finances as part of an intense Justice Department investigation.

In the taped conversation with Nelson, apparently just after the Clinton campaign released a report about the Whitewater investment, McDougal said: "I could sink it [the $68,900 figure] quicker than they could lie about it if I could get in a position so I wouldn't have my head beaten off. And Bill knows that."

In the transcript, McDougal said the Clintons personally sold "a corporate asset" for which Whitewater had made all the payments. He was referring to a lot and model home on the Whitewater property. Lindsey said the Clintons made some payments on the lot.

Last night, McDougal said a transcript read to him "sounds fabricated." He told the Associated Press, "I'm reserving any further comment until whatever Republican prepared the transcript makes the original tape available."

In another development, Sen. Alfonse M. D'Amato (R-N.Y.) accused Democratic National Committee Chairman David Wilhelm of using "political intimidation tactics" in a letter criticizing D'Amato for leading the GOP charge on Whitewater.

In the Feb. 25 letter, Wilhelm said D'Amato's own actions "present a clear pattern of conflict of interest over savings and loans and other business interests." As one example, he cited a Senate ethics committee probe of D'Amato's conduct in permitting his brother Armand to send letters under his name to the Pentagon to lobby for a contract.

D'Amato's reply said the letter "reconfirms my suspicion that something is rotten in Little Rock."

Staff writer Ruth Marcus contributed to this report.

U.S. SENATOR
Al D'Amato News Release
NEW YORK
Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Friday, February 25, 1994

CONTACT: Frank Coleman 202-224-6498
Zenia Mucha 212-736-3865

D'AMATO DENOUNCES DNC CHAIRMAN'S POLITICAL STRONGARM TACTICS

WASHINGTON -- U.S. Senator Alfonse M. D'Amato (R-NY) today denounced the political intimidation tactics being used by Democratic National Committee Chairman David Wilhelm to prevent further investigation of the growing Whitewater/Madison scandal.

"It is an outrage that the President and First Lady would use their handpicked political hatchetman to try and intimidate the legitimate oversight responsibilities I have as a United States Senator. This is another clear sign that something is rotten in Little Rock," said D'Amato.

Attached is the letter from Wilhelm to Senator D'Amato and D'Amato's response.

# # #

[illegible]

February 25, [illegible]

Senator Alfonse D'Amato
United States Senate
520 Hart Senate Office Building
Washington, D.C. 20515

Dear Senator D'Amato:

It is clear you are the leader of the Senate GOP attack on the credibility of the RTC ar FDIC investigations of Madison Guaranty Savings and Loan and the Rose Law Firm. You cla you are motivated by concern over possible ethics violations and not political partisanship. that light, it seems only appropriate we examine your own history because your accusations conflict of interest seem more appropriately applied to yourself.

You have fought to extend the statute of limitations in the RTC savings and loa investigation because of a potential conflict of interest with regard to Madison. However, or need only cursory examination to see that you are a more appropriate target for extension of statute of limitations. Your actions present a clear pattern of conflict of interest over savin and loans and other business interests.

You personally benefitted from the existence of a statute of limitations. In 1986, thre highly respected deans of leading law schools said new evidence "proves the probability c perjury" in your testimony before a 1975 federal grand jury. As I'm sure you will recall, yc testified you were unaware of the "1 percent rule," a practice of forced payments by employe of the town of Hempstead to the Nassau County Republican Committee. These paymen occurred while you were Hempstead's Town Supervisor and Vice-Chairman of the county part

In 1985, it became public you were in fact very much aware of the practice at the tir of your testimony, and had been actively involved in collecting those payments on behalf of th Nassau County Republican Committee. It became public through release of a letter you wrote in which you claimed success in collecting this payment from a particular employee. Your lette became key evidence in the trial proving the existence of the "1 percent rule." However, by th time the new evidence emerged, you were immune from prosecution because the statute c limitations on the case had run out.

Your position on the statute of limitations would have more personal credibility if yo demonstrated consistency by fighting to extend the statute of limitations on your own grand jur testimony in the Nassau County case. You also criticized a 1993 amendment which would hav extended the statute of limitations on bringing legal action against negligent savings and loa directors. You instead voted to protect directors of savings and loan institutions by leaving the statute of limitations in place.

In addition, as you point fingers of blame in the Savings and Loan collapse and clean-up you should be prepared to point to yourself. Your gutting of legislation to tighten regulation on corporate takeovers resulted in the removal of a provision that would have limited S&L purchases of junk bonds. Your contribution records demonstrate a curious pattern of financial support from junk bond dealers and thrift operators at the same time you have worked to weaken legislation which would have restricted junk bond investments by savings and loan institutions. Of course, weaker legislation has now cost taxpayers billions of dollars in clean-up.

Finally, your charges of unethical management do not reflect your own experience of being found by the Senate Ethics committee to have "conducted the business of {your} office in an improper and inappropriate manner" that permitted your brother Armand to send letters to the Pentagon urging approval of weapons contracts for a company he represented.

I hope you will give serious consideration to the points discussed here and that you will take action to extend the statute of limitations on your testimony of 1975.

Sincerely,

David Wilhelm

David Wilhelm
Chairman

ALFONSE D'AMATO
NEW YORK

United States Senate
WASHINGTON DC 20510

February 25, 1994

Mr. David Wilhelm, Chairman
Democratic National Committee
430 South Capitol Street, SE
Washington D.C. 20003

Dear Chairman Wilhelm:

I am in receipt of your letter from
afternoon. It only reconfirms my suspicion
something is rotten in Little Rock. You ca
sure that I will now redouble my efforts to ge
the bottom of this Whitewater/Madison scandal.

Sincerely,

Alfonse M. D'Amato
United States Senator

P.S. Your attempt to interject poli
intimidation into this process is despicable.

Question:

What conversations have you had with The White House on this matter?

Answer:

I've had one substantive conversation and which wasn't. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims exiated, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course." I said "fine".

Question:

Why did you brief the White House on those processes?

Answer:

Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:

Have you attempted to influence the RTC's review of the

Madison Guaranty matter or the outcome of its decision?
Answer:

No

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.

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RT-12658 –

FILE

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

[redacted]

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 10, 1994

JAN 21 1994
OFFICE OF GO[illegible]
RTC

Mr. Roger Altman
Acting Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed please find a copy of a letter we sent today to Attorney General Reno. We would appreciate it if you would consider the request we made therein with respect to our concern that the running of the statute of limitations may prevent the final resolution of all allegations relating to Madison Guaranty Savings and Loan.

Thank you.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

James Leach

Bill Clinger

Larry Pressler

Bob Michel

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 11, 1994

Honorable Janet Reno
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Reno:

We regret that you have rejected Congressional requests to appoint a special counsel to examine the allegations of potential misconduct that have recently surfaced concerning Madison Guaranty Savings and Loan ("Madison") and the Whitewater Development Corporation ("Whitewater").

Of course, we express no opinion as to whether any of the allegations are, in fact, true. Nor do we express any view as to who may, or may not, be involved in any misconduct. Nevertheless, we are writing to urge you to act immediately to seek agreements to toll the relevant civil and criminal statutes of limitations, which are now expiring.

While we have our differences with you over whether to appoint a special counsel under your authority, or an independent counsel following reauthorization of the Independent Counsel Act, we trust that we are pursuing a common objective: a fair investigation conducted in an objective, impartial and independent fashion. The American people, the President, and Mrs. Clinton deserve nothing less.

We are concerned, however, that the goal of fairness and the opportunity for the President and Mrs. Clinton to dispel any doubts about their lack of personal involvement in any of the alleged misconduct may be hampered by the frequent and unfortunate delays in this case. As you are aware, Madison failed and was taken over by the Resolution Trust Corporation in 1989; many of the allegations concerning Whitewater stem from the mid-1980s. However, due to various factors, including the delayed recusal of key officials in your Department and the U.S. Attorney in Little Rock, these allegations have not been pursued in an expeditious manner. As a result, immediate action is now critical.

Under the Federal Deposit Insurance Act, the RTC has only a five year period in which to bring a civil suit for fraud, starting from the date it became the

conservator or receiver of a failed institution. Thus, the ability of the RTC to take civil action may expire as early as March, 1994. The statute of limitations for criminal actions involving bank fraud is 10 years from the date of the occurrence of the criminal activity.

In order to resolve any and all questions regarding Madison and Whitewater, we urge you and the RTC to seek voluntary agreements with all relevant parties, including the President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward, and the Rose Law Firm, to toll the running of the statutes of limitations -- in other words, to seek their agreement to voluntarily waive these defenses. These agreements will allow time for a complete and independent investigation and permit the orderly operation of the legal and judicial processes. It will also remove any doubt that the above named parties may seek to use the statute of limitations as a procedural defense. Furthermore, it will reassure the American public that anyone implicated in any wrongdoing will answer these allegations on their merits.

Attorney General Reno, thank you for your consideration of this request.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

James Leach

Bill Clinger

Hamilton Fish Jr.

Larry Pressler

Bob Michel

cc: **Roger Altman**
Resolution Trust Corporation

DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

February 23, 1994

The Honorable James A. Leach
Ranking Member
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515-6050

Dear Mr. Leach:

In your letter to Deputy Secretary Altman of February 3, 1994, you asked him to seek advice from "Treasury's General Counsel and Ethics Office" as to whether he is obligated to recuse himself from decisions concerning the Resolution Trust Corporation's resolution of Madison Guaranty Savings and Loan Association. He has sought such advice from me and from ethics officials of the Resolution Trust Corporation and the Treasury Department.

I understand you to express concern about the possibility that the Deputy Secretary might, as acting Chief Executive Officer of the Resolution Trust Corporation pursuant to the Vacancy Act, 5 U.S.C. 3347, participate in RTC decisions as to whether there are civil claims for RTC to pursue arising from the failure of Madison Guaranty Savings and Loan Association and the expiration of statutes of limitation applicable to any such claims. Your concern seems to stem from the fact that decisions regarding those claims "may touch upon the President" who appointed the Deputy Secretary to his Treasury position. You asked the Deputy Secretary to seek advice from Treasury's General Counsel as to whether he is "obligated to recuse (himself) from any decisions concerning the resolution of Madison Guaranty." I have advised the Deputy Secretary that neither his appointment at Treasury nor his detail to the RTC creates such an obligation.

Your letter suggests that the Deputy Secretary's participation in such decisions would be "structurally unseemly," a conclusion apparently based on the fact that he was appointed by the President and confirmed for a position in a Cabinet department and is acting in a position in an Executive agency that is not such a department. However, the authority pursuant to which the Deputy Secretary is detailed to RTC duties was amended in 1988 precisely so that any Executive agency, such as the RTC, and not just Cabinet departments, could continue to have Presidentially-appointed leadership when circumstances delay filling vacant positions. Pub.L. 100-398, §7(a)(1) and (2), Aug. 17, 1988, 102 Stat. 988.

You also suggest that a structural issue arises from RTC's "public law enforcement responsibilities;" that it would be improper for a Presidential appointee not confirmed for a position at the RTC to exercise those responsibilities. However, the RTC is not a "law enforcement" agency. Its responsibility to pursue civil claims owed to the institutions it takes over is not a "law enforcement" responsibility. In fact, RTC's claims collection responsibility is more analogous to the responsibility of the head of every Executive agency to collect claims of the United States that arise from the agency's activities or are referred to it. 31 U.S.C. 3711. The differences between the Deputy Secretary's claims collection responsibilities at Treasury and at the RTC raise no "structural" concern regarding his performance of those responsibilities at the RTC.

Even if the RTC were in some special sense a "law enforcement" agency, which it is not, absent an exception in the Vacancy Act or another statutory provision creating an exception, the Vacancy Act authorizes filling vacant positions at any "Executive agency (other than the General Accounting Office)." The language of the Act does not distinguish among agencies based on the nature of their functions. Moreover, it would be incorrect to infer the existence of such distinctions. In the one instance of an exception created by the Vacancy Act, Congress has employed language that clearly achieves that objective. The Act expressly provides that its authority to detail Presidential appointees from other agencies does not apply to vacancies in the office of the Attorney General; neither the Vacancy Act nor any other law creates such an exception for the RTC.

Finally, even if there were some basis for reading into the Vacancy Act a principle that only an official confirmed for a position in an agency with law enforcement responsibilities should be detailed to another such agency, the Deputy Secretary's position at Treasury would qualify, rather than disqualify him. Treasury has enormous criminal law enforcement responsibilities, as is amply demonstrated by the significant law enforcement jurisdictions of the Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service and the Internal Revenue Service. Each of those organizations reports through its chain of command to the Deputy Secretary of the Treasury.

You also suggested that Deputy Secretary Altman consult ethics officials. He has done so. I am informed that the RTC's Ethics Officer and Treasury's Designated Agency Ethics Official, in consultation with the Office of Government Ethics, have advised

the Deputy Secretary that he is under no legal obligation to recuse himself from matters at the RTC that "may touch upon the President."

I trust this letter fully addresses your concerns.

Sincerely,

Jean E. Hanson
General Counsel

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BERNARD SANDERS, VERMONT

(202) 225-4247

February 1, 1994

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. (See the attached memo.)

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head has been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

THE WHITE HOUSE
WASHINGTON

February 10, 1994

Dear Congressman Wolf:

Thank you for your letter of January 11, which asks whether public funds are being used to provide the President with legal assistance related to issues surrounding Whitewater Development Corporation and the former Madison Guaranty Savings and Loan.

As I am sure you realize, an investigation affecting a sitting President necessarily requires the official attention of the White House staff, including the Office of the Counsel to the President. For example, the White House has been called upon to respond to various inquiries from members of Congress. Similarly, members of the press have made inquiries to the White House. These inquiries have required responses from the White House, including legal judgments on matters affecting the office of President of the United States.

As you know, however, the President and Mrs. Clinton are represented personally by a private attorney. No public funds are being used to compensate that attorney. Furthermore, no White House staff members are acting as lawyers for the President and the First Lady where there is no official nexus.

Thank you for your interest in this matter.

Sincerely,

FEB 15 1994

Bernard W. Nussbaum
Counsel to the President

The Honorable Frank R. Wolf
Member of Congress
U.S. House of Representatives
Washington, D.C. 20515

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

May 4, 1993

Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED
MAY 4 1993
Committee on Banking, Finance
& Urban Affairs

Dear Mr. Chairman:

Thank you for this opportunity to comment on the issue of extending the limitations period applicable to tort claims brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed insured depository institution.

As you know, over a year ago the RTC generally supported legislative efforts to extend this limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes. The RTC, however, survived this critical period of time without missing a deadline. In fact, as of March 31, 1993, the RTC had 120 pending offensive lawsuits involving RTC claims filed in 174 institutions. As of the same date, 120 settlement agreements have been executed, and 11 cases went to final judgment through trial.

In addition, beginning last autumn, the RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed" claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines.

Please let me know if you need any further information.

Sincerely,

Roger C. Altman
Interim CEO

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 22, 1994

The Honorable James A. Leach
Ranking Member
Committee on Banking, Finance and Urban Affairs
House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515-6050

Dear Congressman Leach:

I want to let you know what the Office of Government Ethics (OGE) is doing in response to your letter dated March 1, 1994.

Your letter asks for OGE's review and advice as to whether a meeting between three White House officials and Roger Altman, Interim Chief Executive Officer of the Resolution Trust Corporation (RTC) and Deputy Secretary of the Treasury, "violated any guidelines of government ethics, regulations, or law." Various sections of title 3 C.F.R. and title 12 C.F.R. are cited in your letter as possibly being applicable to this matter.

After receiving your letter, my staff contacted Independent Counsel Robert Fiske to request a meeting. OGE has also received a letter from Lloyd Bentsen, Secretary of the Treasury, asking for our views regarding certain actions that may have been taken by members of his staff. Because media reports had indicated that Mr. Fiske's office had issued subpoenas to certain Treasury and White House officials, we felt it was necessary to meet with Mr. Fiske and/or his representatives before proceeding in any fashion with respect to either your letter or Secretary Bentsen's letter. A copy of OGE's letter to Mr. Fiske was sent to you.

Early last week, OGE staff met with the staff from the Office of the Independent Counsel. At the meeting, my staff outlined OGE's role in the executive branch and discussed the steps that OGE might take in response to your letter and the letter from Secretary Bentsen. OGE agreed not to pursue any activities at this time that might jeopardize any investigation now being conducted by Mr. Fiske. OGE asked the Office of the Independent Counsel to notify us when an administrative investigation of employee conduct could proceed. We have since received a letter from that office confirming our conversation. Holding any administrative investigation in abeyance until a criminal investigation is at a stage where it will not be compromised follows the long-standing guidance of the Department of Justice (DOJ). Copies of that DOJ guidance are enclosed for your information.

In the meantime, my staff has arranged to meet with the Inspector General (IG) Offices at both the Department of the Treasury and the RTC. OGE is not an investigatory agency. We believe that we can effectively work with the investigators in those offices so that any information we believe relevant to issues of the application of the standards of ethical conduct can be developed and included in a report from those offices.*

We understand that the IG at the Department of the Treasury has received a request from at least one member of Congress to investigate the matter which is the subject of your letter to OGE, and that the IG, like OGE, is acceding to a request from the Independent Counsel not to proceed on the matter at this time. Accordingly, our discussions with the IG offices will focus on what actions we each might take in the future, once the Independent Counsel has notified us that we may proceed. We will then provide you with our views as to any ethics or conflicts issues that may be raised by the investigative reports.

Sincerely,

Stephen D. Potts
Director

Enclosures

cc: Lloyd Cutler
Counsel to the President

Jean Hanson
General Counsel
Department of the Treasury

Art Kusinski
Director of Office of Ethics
Resolution Trust Corporation

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* It is important to note in this regard that some of the regulations cited in your letter were superseded on February 3, 1993, by OGE's executive branch-wide "Standards of Ethical Conduct" in 5 C.F.R. part 2635. Therefore, it will be the Standards of Ethical Conduct in 5 C.F.R. part 2635 upon which OGE will focus. The cited provision in 3 C.F.R. regarding "General conduct prejudicial to the Government" was not superseded by 5 C.F.R. part 2635 because it is derived from employee conduct regulations issued by the Office of Personnel Management in 5 C.F.R. part 735.

Statement by

Representative James A. Leach

before the

U.S. House of Representatives

March 24, 1994

Mr. Speaker, I rise to a point of personal privilege of the House.

In rising to this point of privilege, I wish to express concern about the breakdown of comity that has occurred on a personal and procedural level in the House Banking Committee.

On a personal level unfortunate adjectives have been used; on a procedural level unprecedented tactics have been employed.

I don't wish to dwell on the personal, except to stress my high regard for the Chairman of the Banking Committee and to suggest that, as the theologian Reinhold Niebuhr once observed, the temper and integrity of the political debate is more important in our kind of democracy than the outcome of any issue.

Motivational aspersions are no substitute for full disclosure; indignation no substitute for pursuit of truth.

Members of the Majority may be speaking the truth when they indicate they have no evidence of a link between the failure of an Arkansas S&L and Whitewater and that they know of no improprieties at issue. But it should be understood that not speaking an untruth is not the same as describing a truthful situation, particularly if there has been no serious effort to pursue the truth.

Constitutionally it is the duty of Congress to oversee breaches of law or public ethics in the Executive Branch. During the 12 years of the so-called "divided government" of the Reagan/Bush era, the Legislative Branch took its Constitutionally-mandated oversight function seriously, as witnessed by the expansion in the size of its staff and the number of investigations undertaken.

Now both the Executive and the Legislative Branches of government are controlled by the same political party. The oversight mandate thus falls disproportionately upon the Ranking Members of the respective Committees for those areas of the Executive Branch over which they have jurisdiction. Not to assume leadership in performing the oversight function with regard to the way in which the financial institutions of this country are managed and regulated would be to violate my oath to "support and defend the Constitution of the United States . . .and . . .well and faithfully discharge the duties of the office."

If the majority party refuses to uphold its responsibilities because of political embarrassment to its party's top elected official, the minority party is left with the choice either of joining in a complicity of silence or pursuing investigations that run the danger of being partisan.

In this context, I would simply emphasize that I raised the Whitewater issue with great reluctance, realizing the import as well as the power of the Presidency. I fully understand the political and personal liabilities involved. Nonetheless, I feel it would be inconsistent, indeed, hypocritical, to my own values, if I refused to pursue a line of inquiry potentially embarrassing to the President of a country which from its inception was intended to be hallmarked by law and its applicability to all citizens. It is, after all, the establishment of a government of laws, not men, that defines the uniqueness of the American experiment with democracy.

Procedurally, it should be noted that the Minority is currently engaged in one of the most profound checks and balances philosophical engagements with the Executive branch in the modern history of the Congress. This engagement carries far greater implications than any judgement relating to a particular embarrassment of a particular public official at a particular time because at issue is precedent: whether in future circumstances the oversight capacities of Congress can be thwarted if the Majority party of Congress is the same as that in control of the Executive branch and chooses to refrain from its oversight obligations in order not to embarrass its party's standings.

It is possible that the Constitutional precedent for our checks and balances system surrounding the refusal of the Administration to cooperate with an oversight probe of the Executive branch which the majority party does not sanction may have more long-term negative consequences than any episodic embarrassment that might relate to this or any President's past. What is at issue is the definition of Congress as it applies to the Constitutionally granted oversight responsibilities of the legislature. In our checks and balances system, Congress was given oversight responsibilities, but this Administration is suggesting in response to minority requests for documentation from Executive agencies that only Chairmen speak for Congress. The minority in Congress, by this logic, has no power to advance or fulfill its Constitutional rights if the majority does not concur in request for information. If such precedent is allowed to stand, Congress's oversight capacities will for all practical purposes be hamstrung whenever the Executive and Legislative branches of government are controlled by the same party. Would our founding fathers have had this in mind?

In this connection, on December 9, 1993, as Ranking Member of the Banking Committee, I wrote federal regulatory agencies to request certain documents of an oversight interest (**Example, Tab A**). In a follow-up letter I pointed out, as the courts have noted, "The Congress rarely acts as a body. Its manifold duties in the legislative, investigative, and oversight fields are almost invariably carried out through committees, committee chairmen, individual members, and staff personnel." Murphy v. Department of Army, 613 F .2d 1151, 1156 (1979). In addition, the court stated:

> "The Senate and the House are so organized that certain legislative and quasi-legislative activities may be accomplished only through committee action. In other respects, however, the legislature acts through its individual Members. All Members have a constitutionally recognized status entitling them to share in general congressional powers and responsibilities, many of them requiring access to executive information. It would be an inappropriate intrusion into the legislative sphere for the courts to decide without congressional direction that, for example, only the chairman of a committee shall be regarded as the official voice of the Congress for purposes of receiving such information, as distinguished from its ranking minority member, or other committee members, or other members of Congress. Each of them participates in the law-making process; each has a voice and a vote in that process; and each is entitled to request such information from the executive agencies as will enable him to carry out the responsibilities of a legislator."

Agency heads responded that a Ranking Member only has the authority of an individual Member of Congress and, therefore, may only obtain information that would be available to the public pursuant to the Freedom of Information Act. In addition, the Office of Thrift Supervision asserted that it differs "with the view that Rules X and XI of the House of Representatives grant to a ranking minority member (or any individual member) the same authority to request information that a committee chairman possesses." In short, the agencies contend that only Chairmen, not Ranking Members, speak for Congress.

Subsequently, on March 8, 1994, I wrote requesting information for the Banking Committee's upcoming RTC oversight hearing (Tab B). Agency heads again responded by holding to the position that only the Chairman of a Committee would be permitted access to agency documents.

In this dispute about who is entitled to speak for Congress in the context of Congress' right and obligation under Article I of the Constitution to conduct oversight of the Executive branch, the Chairman of the Banking Committee, in what may have been an effort to bolster the Executive's position, wrote agency heads on March 10, 1994, to suggest that they deny my document request and wrote separately on March 14, 1994, to state that they need not answer questions concerning Madison Guaranty Savings and Loan at the scheduled hearings. (Tab C and D). The Chairman's letter contained an implicit and unprecedented philosophical assertion that not only does a Chairman have the exclusive right to obtain oversight documents from the Executive branch, but the right to deny such documentation to other Members and the right even to deny inquiries about issues clearly germane to the subject of hearings.

So that there is no misunderstanding, the RTC Oversight hearing was scheduled under requirement of law, Section 21A(k)(6) of the Federal Home Loan Bank Act (12 U.S.C. §1441a(k)(6)), and there is no provision in that law for exceptions to Congressional oversight that relate to a single state and its institutions. The U.S. Congress wrote a law applicable to all 50 states, not 49, and the oversight of our laws applies throughout this country. Just as in America no individual is above the law, no state is beyond its reach. Just as no individual is entitled to violate the law out of ignorance of it, no person, even the Chairman of a Congressional Committee, is entitled after the fact to be sole interpreter of a law's meaning or serve as a censor to another Member's inquiries. Indeed, no Member of Congress has the right or power to deny relevant information to another Member.

In addition to the Federal Home Loan Bank Act, the Committee's role in oversight is buttressed by the House Rules as modified under the Legislative Reorganization Act of 1970. I refer to paragraph 2 of House Rule X providing for the Committee's "General Oversight Responsibilities" which states:

> "(b)(1) Each standing committee ... shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the congress and whether such programs should be continued, curtailed, or eliminated."

Separate procedural rules may apply to an investigative hearing, but such rules do not apply in this case. The statutorily mandated RTC hearing is an oversight hearing in accordance with Rule X. Any reliance on investigative hearing procedures to deny information to Committee Members is misplaced. Any information requests or questions by Members related in any manner to RTC operations are authorized under the Committee's oversight authority. It is also expected that in answering questions witnesses have the obligation either to assert appropriate privileges or fully respond with answers to the questions (See, 2 U.S.C. §192, Sinclair v. United States, 279 U.S. 263 (1929)) and such answers shall be truthful. (See, 18 U.S.C. §1001, U.S. v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)).

Moreover, the precedent of the Banking Committee is clear with respect to the relevance of specific questions on specific institutions. On numerous occasions at past RTC oversight hearings, questions related to individual institutions have been asked by Committee Members, including the Chairman, and answered by witnesses. In fact, the Committee's invitation letter of March 3, 1994, to Treasury Secretary Bentsen for purposes of the RTC oversight hearing, seeks testimony and documents related to a specific institution, Homefed Savings. Of relevance also is the following statement last week of the Chairman of the Senate Banking Committee:

> So we have had now over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses? We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is being implemented. Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. (Cong. Rec. S3153, March 17, 1997).

To the degree the Chairman's letters are open to an interpretation that would imply the possibility that they have been requested by the Administration to bolster its efforts to deny information to the Congress and thereby the public, at issue would be a collusive effort by the Majority party in the Congress to aid and abet the Executive branch in its concerted effort to deny disclosure of information related to legitimate Congressional oversight.

In this regard, a letter recently copied to Rep. William Clinger, Ranking Member of the Government Operations Committee, evidences a comparable approach in another committee of Congress (Tab E).

It is the Minority's position that Executive branch witnesses must address their obligations to respond to legitimate oversight requests and legitimate inquiries on the subject of hearings as required by the law and the Constitution, not in conjunction with any arbitrary desire of a Chairman to deny discussion on a subject the Executive branch would rather not forthcomingly address. The Minority party, has a baseline assumption that officials of the U.S. government will comply with the law and, when appearing before a committee of Congress, abide by the Code of Government Ethics for Federal employees to "Uphold the Constitution, laws, and regulations of the United States and all governments therein and never be party to their evasion." (Pub. L. No. 96-303, July 3, 1980, 94 Stat. 855)

The constitutionally-derived obligation of oversight cannot be short-circuited at the whim of the Congressional majority. It is just as much the duty of the minority party, as the majority. Indeed, in real life circumstance as evidenced in this particular incident, oversight may in practice imply a greater obligation on the party out of power than the party in control of the Executive branch.

Hodding Carter, the distinguished journalist from Mississippi, recently noted that Southerners of virtually all philosophical stripes recognized a little or a lot of truth in certain Northern concerns about discrimination that existed in the South in the heyday of civil rights activism. But with understandable resentment all felt that Northerners had a duty to look a little more assiduously in their own backyards. In this probe of Whitewater, I believe an outsider might conclude that the single party concentration of political power in Arkansas may be in need of review that the shadow of Lyndon Johnson and Huey Long may have been cast to greatly on a former governor ship. But as a Northerner, I am obligated to note that my primary responsibility is my backyard, in this case the body to which I am elected to serve. While I believe it would be unfair to suggest that one of America's great political parties is more honest than the other, I believe the concerted effort to avoid accountability and full disclosure in the Whitewater incident, and the unfortunate institutional precedents in process of being established, reflect attitudes more associated with single party governance of closed than open societies. Competition is the American way. When single party dominance is long and deep, arrogance associated with power creeps incontestably into the system. Whitewater, in the end, may tell more about Congress than the Executive branch.

In this context, the Minority raised concerns about the manner in which the RTC Oversight hearing scheduled this week might have been conducted. Nevertheless, the Minority was disappointed the hearing was abruptly postponed.

Postponement of the hearing by the Majority raises, above anything else, the issue of compliance with the law. Compliance with the law is not a matter of convenience or discretion. The Majority party has no prerogative to avoid capriciously its legal obligations.

Hearings mandated by statute were to have occurred by December 3, 1993. It is a statutory obligation of the Majority in the Legislative Branch to conduct on a timely basis RTC oversight; it is the statutory obligation of the Executive to cooperate with Congress and comply with its legal responsibilities.

The negotiations this week between leaders of the House which led to the passage of a bipartisan resolution expressing the sense of the House as to the need to hold bipartisan hearings are promising. The subsequent statements by the Speaker that these discussions were of the "possibility of hearings, not a concession that hearings are not necessarily going to take place," is disappointing. The Majority has an obligation to ensure that the decision to postpone indefinitely RTC hearings does not amount to yet another example of Congress not applying the law to itself.

With regard to a possible hearing, let me stress the Minority has offered to cooperate fully with the Special Counsel. We have transferred substantial information to his office. We have given him our proposed witness list and offered to support a delay in the day of hearings provided under House rules to the Minority to allow him a chance to depose witnesses first. For his part, the Special Counsel, in a meeting on March 17, 1994, with the Minority, said that he would not impede in any manner Executive Branch testimony and that he would not stand in the way of an RTC oversight hearing. Mr. Fiske also stated that he did not object to the disclosure of copies of documents to Congress, other than White House documents. The existence of a Special Counsel appointed in the Madison case cannot be used as a rationale to avoid providing RTC oversight information to Congress.

Congress and prosecuting attorneys have differentiated roles, but they are by no means incompatible. In fact, they are generally complementary. Indeed, in the Banking Committee hearings over the past decade on institutions such as Lincoln (Charles Keating) and Silverado (Neil Bush) the Justice Department had tandem investigations underway. Hearings almost always reveal knowledge and perspective that is helpful to prosecutors. It was, after all, Senator Ervin's committee that revealed the existence of the Watergate tapes and it was the recent Senate hearing that revealed improper contacts between Executive Branch agencies and the White House. The major recent exception where a prosecutor was undercut by Congress involved excessive zeal to embarrass Presidents Reagan and Bush that caused a committee to offer immunity to certain witnesses in the Iran Contra probe. But the more general proposition is that constraining a Congressional inquiry has the effect of reducing knowledge, thus reducing prosecutorial discretion.

Mr. Speaker, in a country in which process is our most important product, it is the belief of this Member that the precedents established in this investigation are more important than the investigation itself. Nevertheless, I come to the floor this afternoon to present to the attention of the House and the American people some findings, with supporting documentation, the Minority has uncovered in its ongoing investigation of the Whitewater/Madison affair.

Accordingly, I would like to review in both a perspective and information dispensing sense the Madison/Whitewater issue and divide the remainder of my discussion in two categories: what happened and how the Administration has responded.

On the landscape of political scandals Whitewater may be a bump, but it speaks mountains about me-generation public ethics as well as single party control of certain states and the U.S. Congress.

In a nutshell, Whitewater is about the arrogance of power -- Machiavellian machinations of single-party government. It all began in the late 1970s when a budding S&L owner named James McDougal formed a 50-50 real estate venture with a young politician, the then Attorney General of Arkansas Bill Clinton. In this venture called Whitewater, the S&L owner and S&L affiliated entities, provided virtually all, perhaps all, the money; the governor-in-the-making provided his name.

Over the years, the company received infusions of cash from the S&L as well as from a small business investment corporation which diverted, allegedly at the Governor's request, federally-guaranteed funds from a program designed for socially and economically disadvantaged people to the Governor's partners and thence, in part, to Whitewater.

Some of these funds were used to pay off personal and campaign liabilities of the Governor; some to purchase a tract of land from a company to which the state had just given a significant tax break. Whitewater records have apparently been largely lost. A review of the numerous land transactions, however, raises questions of what happened to the money that came into the company and a review of the President's tax records raises questions about tax deductions that were taken and income that may not have been declared.

Under the governorship of Bill Clinton, Jim McDougal was named a Gubernatorial aide to serve principally as liaison to the Economic Development, Commerce, and Highway and Transportation Departments; the first lady of Arkansas was hired to represent the S&L before state regulators; the president of the S&L was placed on the state S&L commission; an attorney who represented the S&L was named the state S&L regulator; the S&L received rent from state agencies; Whitewater had roads constructed using a state agency program and state funds; and the S&L was allowed to operate, despite being insolvent for an extended period, providing millions in loans and investment dollars to insiders and the Arkansas political establishment.

Under the governorship of Bill Clinton, the S&L was allowed to grow 25-fold until federal regulators forced its closing, at which time taxpayers picked up the tab for losses that amounted to approximately 50 percent of the institution's deposit base.

Under the Governorship of Bill Clinton, the total number of state chartered savings associations declined dramatically. Over the period December 1979 to December 1992, the number of stock state chartered thrifts in Arkansas declined from thirty-three, with assets of $961,002,000 to three, with assets of $146,072,000. Viewed another way, the amount of assets available to support home mortgage lending for the people of Arkansas declined.

The story of Whitewater is thus part and parcel the story of the greatest domestic policy mistake of the century -- the quarter trillion dollar S&L debacle. It is the story of a company which in one sense was a simple real estate development venture, but in another was a vehicle used to spirit federally insured deposits from an S&L and compromise a significant political figure.

In the largest series of bank robberies in history, which precipitated an industry bailout larger than the taxpayers provided Lockheed, Chrysler and New York City times a factor of ten, it is fair to ask: "What happened? Who is responsible?"

An answer to these inquiries requires an understanding that those accountable are not only a few negligent and corrupt S&L owners, but attorneys, accountants, state and federal legislators, regulators and assorted public officials. As wide-ranging as the responsibility is, however, it is a mistake to be so glassy-eyed as not to seek lessons for the future through a demand for individual accountability for breaches of law and ethics in the past.

Macro-economics aside, public responsibility for the S&L debacle is of a tripod nature, involving: 1) the conflict-ridden role of Congress in passing loose laws; 2) the ideological mistake of the Reagan Administration in urging deregulation in an industry which requires responsible standards; and 3) the culpability of a small number of state governments, such as in California, Texas, Louisiana and Arkansas, which failed to rein in high flying state-chartered, state regulated institutions, which because of the federal nature of deposit insurance, precipitated a massive transfer of wealth from states with responsible governments to those without.

In Arkansas it is impressive how the federal government was obligated to close more than 80 percent of state-chartered S&Ls in the 1980s and how large taxpayer losses were in relation to the state's S&L deposit base. The failure of the Clinton Administration in Little Rock to fulfill its responsibility to police state financial institutions had the effect of increasing tax burdens on citizens of Arkansas as well as other states.

While taxpayers at the national level were forced to pick up the tab for the mistakes of politicians in whose elections they could not vote, citizens in states like Arkansas were doubly shortchanged. Not only did they have to share in eventual bail out costs, but when their home based financial institutions frittered away the hard earned deposit savings of their state to insiders, fewer resources were made available to potential home owners and minority entrepreneurs.

What the Keating-5 scandal was all about was the attempt of an S&L owner to compromise through political contributions significant political players, in this case five senators, to influence regulators to keep an insolvent, corruptly-run, institution from being closed. What makes Governor Clinton's involvement with a company which helped breach the vaults of an Arkansas S&L philosophically at least equal to, but in reality more troubling than the Keating model is that not only did the institution's management organize conflict-ridden fund raising endeavors for the key politician in the state, but through Whitewater it put the Governor in a compromising personal finance position as well.

What is extraordinary is the hypocrisy of the circumstance. The following 1991 announcement statement of Governor Clinton speaks for itself:

> "For twelve years of this Reagan-Bush era, the Republicans have let S&L crooks and self-serving CEO's try to build an economy out of paper and perks instead of people and products. They stack the deck in favor of their friends at the top and tell everybody else to wait for whatever trickles down."

Despite the rhetoric it is remarkable how time after time in the 1980s, alleged defenders of the little guy in American politics found themselves advancing the interests of a small number of owners of financial institutions which were run as private piggy banks for insiders. The intertwining of greed and ambition turned democratic values upside down.

In our kind of democracy ends simply don't justify means. Just as a conservative, who may despise government, has no ethical right not to pay taxes, a liberal has no ethical basis to put the public's money in his own or his campaign's pocket just because he may have the arrogance to believe he is advancing a political creed that is in the public's interest.

Why does all this matter?

Here, it would perhaps be appropriate to paraphrase the great Illinois Senator, Ev Dirksen: a few thousand here and a few thousand there and pretty soon it adds up to a real scandal. Put another way, an ethical lapse here and an ethical lapse there and pretty soon it adds up to a character deficit.

I have never known anyone in public life better able to put embarrassing episodes behind him than Bill Clinton. Accordingly, I couldn't have been more surprised by the discombobulation of the Administration at the minority's restrained request last November for hearings and full disclosure.

As in most serious public scandals, cover-ups can prove as troubling as acts at their source.

Much press attention has centered in recent weeks on the revelations of improper contact between employees of independent federal agencies and the White House. The question of whether a "heads up" was appropriate is of significance. More so, is whether the line between a "heads up" and "cover-up" was crossed.

By background, for several years a group of criminal investigators for the RTC in Kansas City reviewed the failure of Madison Guaranty Savings and Loan in Little Rock and came to the conclusion criminal referrals were appropriate. In the last week of September 1993, they sent copies of their referrals to Washington. Within a few days of receipt of the referrals from the Kansas City office, RTC Washington officials visited the White House. Within a few weeks, in an unprecedented change of procedure, Washington demanded to review all Madison referrals. Within a few months, a senior Kansas City criminal investigator was removed from the case. Within a few more months, officials from RTC Washington visited Kansas City to pass on the determined message that senior RTC officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses at Madison.

Courageously, Kansas City investigators refused to allow Washington RTC objections to change the content of the referrals they sent in the second week of October 1993 to the Justice Department.

Courageously, Kansas City investigators refused to back the Washington position that Madison's losses were unrelated to Whitewater and pointed out to their superiors that in one intensely reviewed six month period alone approximately $70,000 was transferred from Madison and Madison affiliated companies to Whitewater.

Courageously, Kansas City investigators have sought whistleblower protection rather than comply with the Washington RTC gag order that no one from Kansas City could speak with Special Counsel Fiske without clearance through and accompaniment of Washington RTC officials.

The briefing of the White House by high ranking Department of Treasury and RTC employees must be understood in the context of the development and transmittal to the Justice Department of these referrals and in the context of the possibility Kansas City was in the process of developing further referrals.

There are many elements of the Whitewater affair that are a bit esoteric. But the revelations that U. S. government officials briefed key White House aides on potential legal actions which independent regulatory agencies might be obligated to take implicating but not charging the President and First Lady subvert one of the fundamental premises of American democracy -- that this is a country of laws and not men.

In America no individual, whatever his or her rank, is privileged in the eyes of the law. No public official has the right to influence possible legal actions against him or herself. For this reason agencies of the government as well as the White House have precise rules that govern their employees.

The following standards (31 CFR §0.735-30) apply to the Department of Treasury:

> "An employee should avoid any action ... which might result in, or create the appearance of ...
> (2) Giving preferential treatment to any person; ...
> (4) Losing complete independence or impartiality;
> (5) Making a Government decision outside official channels; or
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

Similarly, the following standards contained in 12 CFR § 1605.7 apply to RTC employees:

> "No employees shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person; ...
> (d) losing complete independence or impartiality;
> (e) making an RTC decision outside official channels; or,
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Likewise, the following standards apply to the White House (3 CFR §100.735-4):

> **"In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:**
>
> **(1) Using public office for private gain;**
> **(2) Giving preferential treatment to any person; ...**
> **(4) Losing complete independence or impartiality;**
> **(5) Making a Government decision outside official**

channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government."

Perhaps laws have not been broken, but seldom have the public and private ethics of professionals in the White House and Executive Departments and branch agencies been so thoroughly devalued.

The point of all this is that there is a disjunction in this Administration between public policy and private ethics. Americans abhor privilege; hypocrisy gnaws at the American soul; it leaves a dispiriting residue of resentment.

What is also extraordinary is the absence of simple truth.

Administration Claim:	Whitewater caused no losses to Madison.
Fact:	As reflected in the minority-developed charts and evidenced by supporting documentation, Madison and affiliated companies transferred significant resources to Whitewater. In addition to being a modest sized real estate company, with a cash flow derived from land sales, Whitewater appears to be one of a dozen so companies with direct or indirect access to Madison and its taxpayer guaranteed deposits.
Administration claim:	The Clintons lost money in Whitewater.
Fact:	To have lost money in Whitewater implies that the Clintons invested sums which were unrecovered. Their Whitewater partner, James McDougal, claims at most the Clintons over the years put in $13,500 in Whitewater. The Minority has provided evidence that one land transaction alone returned more than this amount to the Clintons and published reports indicate tax deductions of some value were taken. The Lyons report, as well as a review of land sales, indicates substantial sums were taken out of Whitewater over the years. It is not clear how disbursements were arranged. What is clear is that infusions of capital from land sales, from Madison affiliated entities and possibly from others appear to have covered loans the company and the Clintons took out. The company may have had a negative value when the Clintons sold their half interest in 1992, but that neither means the Clintons themselves lost money, nor that questions ought not be asked about how direct or

contingent liabilities may have been disposed of as late as 1992.

Administration claim: The President and his staff would fully cooperate with Congress.

Fact: The Executive branch is actively working to prevent full disclosure of documents and committee access to witnesses.

Administration claim: It has done nothing wrong in relation to the RTC investigation into the failure of Madison and is fully cooperating with Special Counsel Fiske's probe.

Fact: Officials of an independent regulatory agency (the RTC) immediately notified the White House of the probe of Madison by its Kansas City office and attempted to put in place procedural techniques to undercut the traditional independence of its regional offices.

Fact: In January, 1994 RTC Washington met with Kansas City staff. After the meeting the Kansas City office filed a formal complaint with Washington RTC.

Fact: On February 2, 1994, the day Roger Altman briefed the White House on Madison Guaranty, RTC Senior Attorney, April Breslaw visited the Kansas City office and said that Washington would like to say that Whitewater caused no losses to Madison. Kansas City employees protested that this was not the case.

Fact: On September 29, 1993, before the new criminal referrals were sent to the Justice Department, Treasury General Counsel Jean Hanson briefed White House Counsel on them. Nine days after the meeting, the referrals were sent to the Justice Department. On October 14, Jean Hanson with Secretary Bentsen's Press Secretary and Chief of Staff met with Presidential Advisors ostensibly to discuss press inquiries related to Madison Guaranty.

Fact: On February 2, right after the appointment of Special Counsel Robert Fiske, Roger Altman gave the White House a "heads up" briefing on Madison. At the Senate Oversight Board hearing, Roger Altman revealed his February 2 meeting, but no others. Several days later, the September and October White House briefings were revealed. On March 9, the Washington Post reported that there were numerous other contacts between the Treasury and the White

House on Madison. After subpoenas are issued it is revealed that there are over 3,500 pages of documentation surrounding these contacts which the White House terms as inconsequential.

Fact: After the appointment of Special Counsel Fiske, Washington RTC officials imposed censorship guidelines on Kansas City RTC employees. No discussion with Fiske could be made without going through Washington. No meetings between Kansas City office and Fiske could take place without accompaniment of Washington officials. No materials could be forwarded without going through Washington. All information concerning attorney-client privilege was to be redacted, with Washington RTC determining the scope.

Administration Claim: No fundraising improprieties occurred.

Fact: On April 4, 1985, Jim McDougal hosted a fundraiser for Governor Clinton. The Clinton's repeatedly asked McDougal to host the fundraiser to pay off the $50,000 personal loan that Clinton had taken out in the final weeks of his 1984 campaign. The question at issue is whether some of the money appears to have been diverted from Madison Guaranty, which would then, with the failure of Madison, imply deferred federal financing of a gubernatorial election. For example, one cashier's check for $3,000 was made in the name of Charles Peacook III, then a 24-year-old college student who disclaims any knowledge of having made a contribution. Mr. Peacock's father was a major Madison borrower and served at one time on Madison's board. Other checks that the RTC is reviewing include a $3,000 check from the late Dean Landrum, an employee of Charles Peacock, and one from Susan McDougal. In the former Governor's defense, candidates are not always in a position to verify their campaign contributions.

Mr. Speaker, the President's former partner, Jim McDougal in a number of occasions has contested the assertion that no resources were taken from Madison Guaranty and its related entities and given to Whitewater. In an AP story on February 4, 1994 and on the David Brinkley Show on March 13, 1994 he specifically raised concerns that Madison Marketing was not owned by Madison Guaranty, but was instead a sole proprietorship owned by his former wife. He has cited documents filed with the Arkansas Secretary of State's office to buttress his claim.

Mr. McDougal apparently believes there are subtleties about the nature of Madison Marketing that need clarification. Mr. McDougal gives great credence to the circumstance that at some point Madison Marketing may have been operating as an intended proprietorship of his wife, but, whether this is true, this appears to be a distinction without a difference, form over substance. The overwhelming perspective as contained in the 1986 Federal Home Loan Bank Board Report of Examination is that all Madison Marketing resources were derived from Madison Guaranty or its subsidiaries. Any money transferred to Whitewater from Madison Marketing would thus have had as its source the S&L. The 1986 FHLBB exam, upon which the earlier staff memo on this subject was based, states:

> "A. Objectionable Conflicts of Interest
>
> Conflicts of interest involving James McDougal, Susan McDougal, and William Henley have been detrimental to the safety and soundness of the Institution. These individuals are in control of the Institution (Madison Guaranty) through their stock ownership. James McDougal owns 63.5% of the outstanding Madison shares. His wife, Susan McDougal, owns 12.6%, and her brother, William Henley owns 8.5%. In addition to his ownership control, Mr. McDougal, as President of the Institution's subsidiary (Madison Financial), has complete control of the land development projects discussed in comment
>
> B. This control enabled Mr. McDougal to structure the development and financing of the projects so that substantial cash payments could be diverted to himself, Susan McDougal, William Henley and others. These payments have directly benefited these individuals, but Madison Guaranty has received little or nothing in return. Though they have been structured to avoid specific Insurance Regulations, these payments are contrary to the general policy of the FHLBB concerning conflicts of interest as stated in Insurance Regulation 571.9 and FHLBB Memorandum R-19a.
>
> Many of these payments have been funneled through business entities which are owned or controlled by the McDougals, employees, relatives of employees, or close friends of the McDougals and Henley. . . .
>
> 2. Madison Marketing
>
> Madison Marketing is paid for doing all the general advertising for Madison Guaranty and most of the advertising for Madison Financial's land development projects. All of Madison Marketing's business is derived from Madison Guaranty or its subsidiaries. Since 1983 these payments total $1,532,000. . .

> Given the evidence of Madison Marketing's invoices, it is questionable how much of these advertising services are actually performed by the firm. The actual work of advertising, such as the design and production of commercials and providing air time or newspaper space, appears to be performed by others. Madison Marketing apparently just pays the bills of other providers and adds a 15% fee of its own. Examiners estimated this fee to be approximately $200,000 since 1983. It would appear that Madison Guaranty could have an employee perform similar work for much less money.
>
> Mr. Latham stated that Madison Marketing made no payments to any stockholders. This statement is false. As a part of a test for such payments, the examiners discovered two remittances from Madison Marketing to Susan McDougal which total $50,000. This was a test, and there may be additional payments."

Mr. McDougal apparently believes Madison Marketing should be understood simply as a sole proprietorship of his wife with no ties to the S&L. This view is in discordance with that of the United States Government, as indicated by the FHLBB report cited above; it is also in discordance with a contemporaneous view of the legal situation as defined and described by Mr. McDougal in a July 1, 1986 memorandum from him to Madison Guaranty's President, Mr. John Latham. In this memorandum, which is a copy of an original Madison document in the possession of the RTC and the minority of the House Banking Committee, Mr. McDougal asserts:

> In late January, 1985, Mrs. McDougal permitted Madison Marketing to become a subsidiary of Madison Financial Corporation.

In addition, Mr. Jeff Gerth of The New York Times has reported on March 8, 1992, an earlier instance in which Madison Marketing transferred resources to Whitewater. Mr. Gerth reported:

> Whitewater's check ledger shows that Whitewater's account at Madison was overdrawn in 1984, when the corporation was making payments on the Clinton's loan. Money was deposited to make up the shortage from Madison Marketing, an affiliate of the savings and loan that derived its revenues from the institution, records also show.

In addition, David Hale and his attorney Randy Coleman have asserted in recent days that it was proceeds of an $825,000 Madison loan that was used to leverage SBA funds and to make the $300,000 loan to Susan McDougal, of which $110,000 was deposited to Whitewater.

This evidentiary material coupled with the April 17, 1985 Minutes of Madison Financial's board authorizing a transfer of $30,000 from

Madison Financial to Whitewater, the memo of L. Jean Lewis of the Kansas City RTC office showing over a six month period reviewed that approximately $70,000 was transferred from Madison or affiliated entities to Whitewater, plus other more confidential RTC material in our possession indicates there is every credible reason to believe that Madison Guaranty through affiliated entities did transfer money to Whitewater.

Furthermore, records filed with the Arkansas Secretary of State's office show that Mr. McDougal, as president of Madison Financial Corporation (a subsidiary of Madison Guaranty) on July 26, 1986 filed an application for registration of fictitious name. The application was for Madison Financial to do business as "Madison Marketing." This document does not represent incorporation papers. This application appears to be in response to the 1986 Federal Home Loan Bank exam which noted that with regard to Madison Marketing and Madison Real Estate, Madison Financial had "not registered as a 'd/b/a' in the County records."

The effect of this statement with its supporting documentation is to evidence that:

1) Whitewater may have begun as a legitimate real estate venture but it came to be used to skim, directly or indirectly, federally insured deposits from an S&L and a Small Business Investment Corporation. When each failed, the U.S. taxpayer became obligated to pick up the tab;
2) The family of the former Governor of Arkansas received value from Whitewater in excess of resources invested;
3) Taxpayer guaranteed funds were in all likelihood used to benefit the campaign of a former governor;
4) The independence of the U.S. Government's regulatory system has been flagrantly violated in an effort to protect a single American citizen;
5) Congress and the Executive are employing closed society techniques to resist full disclosure of an embarrassing circumstance, with unfortunate precedent setting ramifications.

Last month a BBC reporter asked me if we Americans weren't making too much of this scandal. He raised a fair question. Compared with petty potentates around the world, who routinely walk off with millions and in some cases billions, conflicts of interest in American politics are of petty variety. In this case, however, we have a situation where a multi-thousand dollar conflict of interest led to a multi-million dollar hit on the taxpayer. That is the meaning to the failure of Madison Guaranty. That is also the meaning of the Small Business Investment Corporation called Capitol.

It is simply not appropriate to shrug it off and say that this is the way things are done in small states. They aren't in Nebraska, South Dakota, or Iowa. It is simply not appropriate to say it isn't a federal issue. It is. The U.S. taxpayer has lost millions; home owners in Arkansas have lost institutions that were established to serve their needs; minorities throughout the country cannot lightly shrug off yet another instance in which a program designed to give them a crack at the American dream was redirected to serve the investment ego a state political establishment.

It is suggested by the Majority that we have better things to do around here. There again is some truth to this. The minority also wants to get on with the business of health care, welfare reform, crime legislation. Indeed, we pledge to be constructive and are not blocking any Congressional consideration of these issues. But, in a larger sense, it should be understood that these "we have better things to do" laments suggest that ethics, governmental integrity, and the possible misuse of the public's money should be secondary considerations -- something to worry about only when we have time. In a democratic system, built and maintained on the confidence of the people, placing such considerations last on the list of priorities is a highly dubious game. Nothing works over the long haul if the public loses confidence in its governmental institutions and the people who operate those institutions. The task of keeping the people's confidence may not be pretty or pleasant, but it is a first priority in our system -- not a last priority as all too many are suggesting today.

Whitewater is less about the issues of the day than it is the ethics of our time. It is a central issue not because it is big, but precisely because it is small.

The way we in America keep our scandals from becoming too big is by holding people accountable when the amounts of money at issue are relatively small. It is the principles at issue, not the dollar amounts that matter.

In conclusion, let me stress that the most difficult issue to deal with is the question of proportionality. When the Minority made its restrained request for hearings last November I suggested that while there was fire with the smoke, Whitewater appeared to be more a camp than forest fire. I now believe the fire has spread to the grass and is heading to the trees but that it is still not too late to put it out with full disclosure and full accountability. In this regard, I suggested in a December Washington Post editorial that when breaches of law or public ethics occur, options often exist as to whether civil or criminal remedies are appropriate. I presumptuously concluded then and maintain now that there is no reason not to proceed with civil accountability in a civil way. The last thing this country needs is a year long trial or travail for the President of the United States. It would divide the country and be unfair to the public as well as the President.

Accordingly, I have pledged to the President's Counsel as well as to the Special Counsel that I will do my best to put the issue behind once disclosure is provided. Accountability is in order; a

Constitutional crisis is not. The Presidency should neither be jeopardized nor debilitated. Rather than high crimes and misdemeanors, the issue today relates to high improprieties and breaches of the public trust.

-- 30 --

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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]
MARGE ROUKEMA [illegible]
[illegible]
BERNARD SANDERS, [illegible]

March 31, 1994

RECEIVED
MAR 31 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

John E. Ryan
Deputy Chief Executive Officer
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Ellen B. Kulka
General Counsel
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan and Ms. Kulka:

I am in receipt of the two RTC letters of March 30, 1994 and would like to make the following points.

While I have made no assertion or implication that either of you are responsible for RTC decisions made last fall, my concern is that efforts were made to jeopardize the independence of the regulatory system at that time and that certain reorganization decisions recently made may impinge on the independence of the RTC's investigations division. For perspective, I have noted and you do not contest that:

1) It was RTC-Washington that within two days of receipt of criminal referrals from the Kansas City office visited the White House;

2) It was RTC Washington that objected to the content of the referrals, and shortly after their receipt, attempted to establish an unprecedented change of procedure related to reviewing then existent and future Madison referrals;

3) Shortly after, a senior Kansas City criminal investigator was removed from the case;

4) Then in early February, officials from RTC-Washington visited Kansas City where the message was communicated that senior RTC officials in Washington wished to claim Whitewater did not cause any losses at Madison.

[redacted]

Page 2
John E. Ryan
Ellen B. Kulka
March 31, 1994

Nothing in your response disputes the occurrence of these events. With regard to the statement "that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison," you state, "we are quite sure that neither of us has given any such instructions to RTC staff." I appreciate this perspective. However, it is a point of fact, not conjecture, that RTC attorney April Breslaw told a senior criminal investigator in the Kansas City office that, "Ryan and Kulka, the 'head people,' would like to be able to say that Whitewater did not cause a loss to Madison," as reflected in the attached notes from the taped conversation of February 2, 1994.

With regard to your implicit acknowledgement that RTC-Washington disagreed with criminal referrals developed at the regional office, it should be stressed that even though these referrals were sent to Justice exactly as investigators had proposed them, it is not the case, as you suggest, that internal staff disagreements in the Washington vs. regional office context are common. The fact is that it is virtually unprecedented for RTC-Washington to attempt to influence the content of a criminal referral developed by a regional office in the way RTC-Washington attempted. It was only because of the courageous refusal of the Kansas City office to modify their content that the referrals were sent untampered to the Department of Justice. This decision in Kansas City presumably represented a consensual leadership decision, not simply a "junior staff" approach as your letter implies. In this regard, there is no indication whatsoever that the referral information reflected anything except the highest professional standard.

As for documentation, it is always a matter of judgement as to what to release publicly. We made a careful effort to release nothing that affected the prosecutorial strategy of the Special Counsel. In fact, we carefully culled documents in our possession with the intent to withhold anything that could affect prosecutorial discretion. We even redacted previously unreported information that may have related to prosecutorial strategy. If the material has shed an embarrassing light on government policy and policy makers, we can only say that the documents speak for themselves.

With regard to your statement "you requested a particular document from the RTC last week even though it was apparently already in your possession," please be informed that when the request was initially made I did not have this document in my possession. Here it might also be pointed out that the document you objected to was fully described in a prior Washington Post story of November 11, 1993, a story which did not originate from my office. To assert that the public release of a document already widely reported "could have a deleterious effect on [y]our investigations," is simply not credible.

So that there is no misunderstanding, I support certain decisions made under your leadership at the RTC. I am pleased that the RTC has hired outside counsel to advise the agency and that it has requested its own inspector general to reexamine issues surrounding the failure of Madison. I am also pleased that you have indicated your intent to cooperate fully with Special Counsel Fiske.

However, I remain concerned at the intransigence of RTC-Washington concerning document production and the recent reorganization effort which appears to reduce markedly the independence of regional RTC investigation units. I am particularly concerned about the new rules designed to take away regional independence that have been imposed in recent weeks as reported in the March 30, 1994 Kansas City Star (copy enclosed). The Star states: "For the first time the RTC criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section." Also reported are concerns of RTC employees that this change in procedure will politicize the criminal referral process, create potential conflicts of interest and be the "death of the RTC investigations division." Generally, there is a case for reorganizing any federal bureaucracy at any time. However, the timing and substance of the structural change raises questions that relate more to political independence than bureaucratic efficiencies.

As demonstrated in the remarkable independence of the San Francisco regional OTS office in its dispute with Washington authorities in the Keating matter, and as reflected in Kansas City's courageous investigation of Madison, it would appear that decentralized regional offices are more immune to political influence than Washington bureaucracies. Centralization of decision making carries in this circumstance apparent and unfortunate political overtones.

Sincerely,

JAMES A. LEACH
Ranking Member

JL:bt

enclosures (2)

Notes from the conversation between RTC Senior Criminal Investigator L. Jean Lewis and FDIC Attorney April Breslaw on February 2, 1994, from approximately 3:50 p.m. until 4:35 p.m.

- April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and it's related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison provided less potential for a loss. April stated very clearly that Ryan and Kulka (?), the "head people", would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

- April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She asked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

- She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by [redacted] and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered by the payment of a $30,000 bonus from MFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

- She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook".

- She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

- I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners - the same business partners that knew they had real estate ventures that were not cash flowing, but that also knew their mortgages and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an S&L, was in serious financial difficulty, which by 1985 was fairly common knowledge?

- We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

Thrift investigators criticize effort to streamline RTC

Some say new rule putting them under charge of agency's civil lawyers raises conflict issue.

By MIKE McGRAW
and JEFF TAYLOR
Staff Writers

A new rule that lawmakers hoped would give the government more time to scrutinize Madison Guaranty Savings & Loan — the failed Arkansas thrift at the center of the Whitewater scandal — is drawing heavy flak from some thrift investigators.

Last month, the Resolution Trust Corp. received a two-year extension on the time it has to file civil fraud actions against failed savings and loans. The reform, which was opposed by the Clinton administration last year, applies to all failed thrifts but takes on added urgency because of the Whitewater investigation.

Without the extension, the RTC would have had to file civil charges against Madison Guaranty by [illegible]

But as part of that broad effort to streamline the RTC, criminal investigators this week began reporting to a branch of the agency that has been accused by investigators in Kansas City and elsewhere of stalling the Whitewater investigation.

For the first time, the RTC's criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section.

The change was intended to correct RTC management problems raised in recent congressional hearings, but several agency sources claim that the PLS comprises the "political arm" of the RTC. "This is the death of the RTC investigations division," warned one senior agency criminal investigator.

Other RTC sources say the move at least is a potential conflict of interest. They point out that a PLS lawyer pursuing a civil case against a thrift official could be in the position to send a criminal referral to the Justice Department if the civil case were not settled — an action some RTC law[illegible]

Tom Burnside, a former PLS lawyer now in private practice in St. Louis, said traditionally there was a clear wall separating criminal investigators from the civil lawyers at PLS.

Anne Freeman, an RTC spokeswoman in Washington, said agency officials would not respond to claims that lawyers in the Professional Liability Section might be in a position to impede investigations for political reasons.

The dispute between investigators and PLS lawyers, who pursue civil claims against officials of defunct thrifts, came to a head recently when Kansas City investigators claimed the PLS lawyers and others pressured them to alter or suppress findings in the Whitewater case.

[illegible]

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 30, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
  and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

We wish to comment on your March 24, 1994 statement before the U.S. House of Representatives as it relates to the RTC's handling of Madison Guaranty. Furthermore, we are concerned that the RTC's ability to recover money for the taxpayers may be compromised by unauthorized and premature disclosure of active investigative information.

By way of background, I became Deputy CEO of the RTC on January 4, 1994. Ellen B. Kulka became General Counsel on January 17, 1994. Neither of us are political appointees. No pressure has been exerted by the Treasury, the White House, or any other source in the Executive Branch concerning the performance of our responsibilities with respect to Madison Guaranty or Whitewater since either of us joined the RTC.

Most of the events cited in your statement occurred before we joined the RTC and we have no first-hand knowledge of them. However, we do feel compelled to point out one or two facts in the documents you disclosed that we believe put a somewhat different light on matters than what you cast. While we believe that any comment about criminal referrals should be avoided, the rush to disclose confidential documents and to obtain information which is partial at best from junior staff has led to substantial misinformation being disseminated to the public. First, the overriding fact is that referrals were made exactly as the investigators had prepared them irrespective of whether there were internal staff disagreements about them or not. We would also observe that, based on our short tenure, internal staff disagreements at the RTC are not uncommon. Second, you stated that "...A senior Kansas City criminal investigator was removed from the case.." What you failed to point out--or perhaps were not aware of--is that the attorney in Kansas City with whom the investigators had disagreements was also removed from the case at the same time.

As a general matter, it is clearly inappropriate for a government agency to publicly discuss referrals made to the Justice Department regarding possible criminal violations because such discussions could undermine the Department's ability to prosecute the case if the facts are determined to warrant prosecution. As we have indicated to you on numerous recent occasions, the RTC follows this policy. Disregarding this policy, you have demanded information regarding such matters. As early as Thursday of last week, you publicly released documents and internal memoranda which were obtained from employees of the RTC who were not authorized to disclose them. As you may recall, you requested a particular document from the RTC last week even though it was apparently already in your possession. While you stated in your request to the RTC that special counsel Fiske did not object to the release of documents to the Congress, our continuing dialogue with Mr. Fiske about the release of documents and about the specific document in question verified our understanding that he believes, as we do, that such a release would be inappropriate and could have a deleterious effect on our investigations. We, therefore, denied your request and conveyed the substance of our conversation with Mr. Fiske to your staff before your comments on Thursday. We were surprised to see the document in the materials appended to your statement which was supplied to the press.

With respect to events that are attributed specifically to us, you state "... officials from RTC Washington visited Kansas City to pass on the message that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison.." While we do not know precisely what was said or the context in which it was interpreted, we are quite sure that neither of us has given any such instructions to RTC staff. In recognition that it is rarely possible to prove something didn't happen, we simply wish to be judged by our actions in the performance of our responsibilities. Those actions taken by the RTC during our tenure include: first, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information which has become available; second, the request that the Office of Inspector General review the RTC generated report on the Rose Law Firm as well as the billings of that firm with respect to Madison; third, the retention by the Legal Division in February 1994 of Pillsbury, Madison & Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to special counsel Robert Fiske.

When the RTC has completed its investigation and taken appropriate action, a full report on this matter will be made to the U.S. Congress. We fully expect to be judged by our actions at that time. In the meantime, we believe all parties concerned would be ill-served by the premature disclosure of incomplete and fragmentary data.

Finally, we are quite concerned about the future implication of the encouragement given to RTC staff over the unauthorized disclosure of confidential information. Such disclosures not only can impair the RTC's ability to pursue recoveries for the taxpayer but also could compromise the financial privacy of any citizen whose only misdeed was doing business with a savings and loan that failed. Our attempts to protect the RTC's legal and fiduciary duties in this regard, and to speak consistently on an extremely sensitive matter is inappropriately characterized as "gagging".

We have made all information requested by Mr. Fiske's staff available to him and will continue to cooperate to the fullest extent possible. We have made substantial amounts of information available to your staff and the staffs of others in Congress. To the extent consistent with our duty to complete an investigation and make sure it is not compromised, we will continue to cooperate with Congress in a manner consistent with our understanding of our duties.

Sincerely,

John E. Ryan
Deputy CEO

Ellen B. Kulka
General Counsel

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

On January 11 and January 25, 1994 you wrote to me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

[redacted]

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 25, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

I am writing to you in connection with the letters of January 11, 1994, to Attorney General Janet Reno and yourself, expressing the grave concern that I and a number of my colleagues have regarding the expiration of the applicable statutes of limitations with respect to possible wrongdoing at Madison Guaranty Savings and Loan ("Madison"). We urged that voluntary agreements tolling the statute of limitations be sought with all the relevant parties. That letter addressed the urgent need for immediate action with respect to any violations that may have occurred, since the applicable statute of limitations may expire as soon as March, 1994.

More than two weeks have passed since we raised this vital issue. In his public comments, Special Counsel Fiske has already demonstrated his recognition of, and sensitivity to, the applicable criminal statutes of limitations.

I have yet to be apprised of what action, if any, the RTC has taken to ensure that the applicable civil statute will not expire. The American people have the right to know if any wrongdoing took place in connection with Madison. It is equally important that the rights of the American people to obtain a full accounting against wrongdoers be preserved.

The RTC should do all in its power to protect the American taxpayer by making a definitive interpretation of precisely when the civil statute of limitation will expire, and then take action to voluntarily seek agreements from potential parties to RTC-initiated legal actions. Should the statute of limitations run, any findings that the RTC makes will be meaningless--there will be no hearing and the American people will be left without complete redress.

Members of the Banking Committee staff have discussed the need for meaningful action with representatives of the RTC. My staff was informed that the RTC had not yet made a final analysis with respect to the expiration of the statute of limitation. They were also informed that no response was immediately available, more than two weeks after this issue was raised--this is inconceivable and unacceptable.

In light of the RTC's failure to respond to these concerns for over two weeks, I am compelled to write again to ascertain what action the RTC has taken, so that I may consider alternate avenues that I can pursue in order to protect the interest of the American people with respect to this matter. I can see no reason for further delay on your part. Please provide me with your conclusions as to the application of the relevant statute of limitations with respect to the Madison situation immediately.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican
Senate Banking Committee

AMD:dn

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WASHINGTON, DC 20510-6075

January 10, 1994

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RTC

Mr. Roger Altman
Acting Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed please find a copy of a letter we sent today to Attorney General Reno. We would appreciate it if you would consider the request we made therein with respect to our concern that the running of the statute of limitations may prevent the final resolution of all allegations relating to Madison Guaranty Savings and Loan.

Thank you.

Sincerely,

Bob Dole
Alfonse D'Amato
Jan Meyers
Jim Leach
Bill Clinger
Bob Michel
Larry Pressler

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 11, 1994

Honorable Janet Reno
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Reno:

We regret that you have rejected Congressional requests to appoint a special counsel to examine the allegations of potential misconduct that have recently surfaced concerning Madison Guaranty Savings and Loan ("Madison") and the Whitewater Development Corporation ("Whitewater").

Of course, we express no opinion as to whether any of the allegations are, in fact, true. Nor do we express any view as to who may, or may not, be involved in any misconduct. Nevertheless, we are writing to urge you to act immediately to seek agreements to toll the relevant civil and criminal statutes of limitations, which are now expiring.

While we have our differences with you over whether to appoint a special counsel under your authority, or an independent counsel following reauthorization of the Independent Counsel Act, we trust that we are pursuing a common objective: a fair investigation conducted in an objective, impartial and independent fashion. The American people, the President, and Mrs. Clinton deserve nothing less.

We are concerned, however, that the goal of fairness and the opportunity for the President and Mrs. Clinton to dispel any doubts about their lack of personal involvement in any of the alleged misconduct may be hampered by the frequent and unfortunate delays in this case. As you are aware, Madison failed and was taken over by the Resolution Trust Corporation in 1989; many of the allegations concerning Whitewater stem from the mid-1980s. However, due to various factors, including the delayed recusal of key officials in your Department and the U.S. Attorney in Little Rock, these allegations have not been pursued in an expeditious manner. As a result, immediate action is now critical.

Under the Federal Deposit Insurance Act, the RTC has only a five year period in which to bring a civil suit for fraud, starting from the date it became the

conservator or receiver of a failed institution. Thus, the ability of the RTC to take civil action may expire as early as March, 1994. The statute of limitations for criminal actions involving bank fraud is 10 years from the date of the occurrence of the criminal activity.

In order to resolve any and all questions regarding Madison and Whitewater, we urge you and the RTC to seek voluntary agreements with all relevant parties, including the President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward, and the Rose Law Firm, to toll the running of the statutes of limitations -- in other words, to seek their agreement to voluntarily waive these defenses. These agreements will allow time for a complete and independent investigation and permit the orderly operation of the legal and judicial processes. It will also remove any doubt that the above named parties may seek to use the statute of limitations as a procedural defense. Furthermore, it will reassure the American public that anyone implicated in any wrongdoing will answer these allegations on their merits.

Attorney General Reno, thank you for your consideration of this request.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

Jim Leach

Bill Clinger

Hamilton Fish

Larry Pressler

Bob Michel

cc: Roger Altman
Resolution Trust Corporation

RESOLUTION TRUST CORPORATION
OFFICE OF GOVERNMENTAL RELATIONS
CORRESPONDENCE REFERRAL

ument: 12996   Document Date: 94/03/06   **Due Date:** 94/03/18
Input Date: 94/03/14

NAME: D'Amato, Honorable Alfonse M.
Ranking Member
Committee on Banking, Housing, and
ADDRESS: Urban Affairs, U.S. Senate
Washington DC 20510

Copies To:
Standard Dist.
CGR STAFF
MR. LYND
B. HINTON

Synopsis: QUESTIONS RE [HEADS-UP] [BRIEFING] ROGER [ALTMAN] ABD JEAN [HANSON] GAVE [WHITE HOU]SE OFFICIALS. WAS MS. HANSON AT FEBRUARY 24TH [HEARING]? WHY DIDN'T SHE BRIEF COMMITTEE MEMBERS RE MEETINGS? [IMPORTANT] [illegible]

Action: Prepare for Roger Altman Signature

OLA Contact: Carol O'Brien (202) 416-7314

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 1062A-801 17th Street) with WordPerfect disk or by -mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-4413.

* This form is necessary for review purposes *

Assigned To: Date:
OLA-CEO Roger C. Altman/NYG - Interim CEO   94/03/14

AUTHOR: ______________________   PHONE: ______________

REVIEWED BY:	DATE IN	DATE OUT	REVIEWED BY:	DATE IN	DATE OUT

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WASHINGTON, DC 20510-6075

March 6, 1994

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RTC

Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

During the recent RTC Oversight Board Hearing, you made some startling disclosures about a "heads-up" briefing that you and Treasury General Counsel Jean Hanson gave top White House insiders. Your testimony triggered another disclosure about two earlier clandestine White House meetings. The list of participants in these meetings includes many top Administration figures and political operatives, including White House Counsel Bernard Nussbaum and Ms. Hanson.

Ms. Hanson has been described as one of "Treasury's top political team." In light of her prominent behind-the-scenes role in the handling of the Madison affair, and her role at the Department of Treasury, I would like to know whether Ms. Hanson was present at the RTC Oversight Board hearing on February 24th. As the top legal advisor to the Secretary of Treasury and the Department's chief law officer, it would make sense for her to attend a hearing where people she advises--namely, Secretary Bentsen and yourself--were testifying.

If Ms. Hanson did attend, why did she did not come forward and brief the Committee members, and witnesses, including yourself, about these other questionable White House meetings in which she participated? The American people and Congress have a right to demand and expect from high-ranking administration figures such candor and honesty. In addition, did she ever brief you on these earlier meetings? If she did not brief you about these meetings was she not derelict in her duties?

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senate

O:\JEN\JEN94.412 S.L.C.

103D CONGRESS
2D SESSION

S. RES. 217

IN THE SENATE OF THE UNITED STATES

Mr. D'AMATO (for himself ______ ______) submitted the following resolution; which was ______

RESOLUTION

Establishing a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to conduct an investigation into allegations concerning the Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and other related matters.

Resolved,

ESTABLISHMENT OF THE SPECIAL SUBCOMMITTEE

SECTION 1. (a) There is established a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to be known as the Special Subcommittee on Certain Allegations Concerning Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and Related Issues (hereafter in this resolution referred to as the "special subcommittee").

(b) The purpose of the special subcommittee is—

(1) to conduct an investigation into, and study of, all matters which have any tendency to reveal the full facts about—

(A) the operations, solvency, and regulation of Madison Guaranty Savings and Loan Association, including the alleged use of federally insured funds as campaign contributions;

(B) the relationship among Madison Guaranty Savings and Loan Association, other federally insured institutions, and Whitewater Development Corporation;

(C) the management and business activities of Whitewater Development Corporation and its shareholders, including issues of personal, corporate, and partnership tax liability;

(D) the policies of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies regarding legal representation of the agencies, including conflicts of interest and cost controls;

(E) the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency;

(F) the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association;

(G) the pursuit by the Resolution Trust Corporation of civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(H) the pursuit by the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of administrative and civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(I) the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association;

(J) the delayed recusal of the United States Attorney for the Eastern District of Arkansas from the investigation or prosecution of David Hale, Capital Management Services, Inc., and Whitewater Development Corporation;

(K) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation;

(L) the Park Police investigation into the death of White House Deputy counsel Vincent Foster;

(M) the operations and underwriting activities of the Arkansas Development Finance Authority;

(N) the circumstances surrounding and the propriety of the commodities-futures trading activities of Hillary Rodham Clinton;

(O) the investment activities of Value Partners I, including the compliance of these activities with Federal laws governing conflicts of interest;

(P) any other issues related to the matters referred to in subparagraphs (A) through (O); and

(Q) any issues developed during, or arising out of, the hearings conducted by the special subcommittee; and

(2)(A) to make such findings of fact as are warranted and appropriate;

(B) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the special subcommittee may determine to be necessary or desirable; and

(C) to fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

(c) For purposes of this section, the term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

MEMBERSHIP AND ORGANIZATION OF THE SPECIAL SUBCOMMITTEE

SEC. 2. (a)(1) The special subcommittee shall consist of—

(A) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the chairman;

(B) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the ranking member;

(C) 3 members of the Senate appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate; and

(D) 3 members of the Senate appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

(2) Vacancies in the membership of the special subcommittee shall not affect the authority of the remaining members to execute the functions of the special sub-

committee and shall be filled in the same manner as original appointments to it are made.

(3) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the special subcommittee shall not be taken into account.

(b)(1) The chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs shall be cochairmen of the special subcommittee.

(2) A majority of the members of the special subcommittee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that a quorum shall not be necessary for the purpose of taking testimony before the special subcommittee or for conducting the other business of the special subcommittee.

(c)(1) The special subcommittee shall promptly adopt appropriate rules and procedures consistent with this resolution.

(2) The rules and procedures of the special subcommittee shall—

(A) govern the proceedings of the special subcommittee; and

(B) consistent with section 6 of this resolution—

(i) provide for the security of the records of the special subcommittee; and

(ii) prevent the unauthorized disclosure of information and materials obtained by the special subcommittee in the course of its investigation and study.

STAFF OF THE SPECIAL SUBCOMMITTEE

SEC. 3. (a)(1) Committee staff from committees having jurisdiction over matters described in section 1(b) shall be detailed to the special subcommittee, subject to availability, as requested by the cochairmen.

(2) In addition to staff detailed pursuant to paragraph (1) and to assist the special subcommittee in its investigation and study, the cochairmen, after approval of the special subcommittee, may appoint special subcommittee staff.

(3) All staff detailed pursuant to paragraph (1) or appointed pursuant to paragraph (2) shall work for the special subcommittee as a whole, shall report to the two cochairmen and, except as otherwise provided by the special subcommittee, shall be under the direction of the cochairmen.

(b) To assist the special subcommittee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special subcommittee.

(c) The Majority and Minority Leaders of the Senate may each designate one staff person to serve on the staff of the special subcommittee to serve as their liaison to the special subcommittee.

(d) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate assistance may be required by the special subcommittee.

PUBLIC ACTIVITIES OF THE SPECIAL SUBCOMMITTEE

SEC. 4. (a) Consistent with the rights of persons subject to investigation and inquiry, the special subcommittee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the special subcommittee—

(1) shall hold, as either cochairman considers appropriate, open hearings on specific subjects, subject to consultation and coordination within the independent counsel appointed pursuant to chapter 28, part 600, of the Code of Federal Regulations (referred to as the "independent counsel");

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains a description of all relevant factual determinations consistent with subsection (a) of this section and section 1(b)(2) and which contains recommendations for new legislation, if necessary.

POWERS OF THE SPECIAL SUBCOMMITTEE

SEC. 5. (a) The special subcommittee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) The special subcommittee is authorized to issue subpoenas for obtaining testimony and for the production of documentary or physical evidence. A subpoena may be authorized and issued by the special subcommittee, acting through either cochairman or any other member designated by either cochairman, and may be served by any person designated by either cochairman or other member anywhere within or without the borders of the United States to the full extent permitted by law. Either cochairman of the special subcommittee, or any other member thereof, is authorised to administer oaths to any witnesses appearing before the subcommittee.

(c) The special subcommittee is authorized to do the following:

(1) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special subcommittee considers necessary or appropriate.

(2) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(3) To hold hearings, take testimony under oath, and to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(4) To request a grant of immunity under section 6005 of title 18, United States Code, after consultation with the independent counsel.

(5) To require by subpoena or order the attendance, as witnesses before the special subcommittee or at depositions, of any person either cochairman determines may have knowledge or information concerning any of the matters the special subcommittee is authorized to investigate and study.

(6) To take depositions and other testimony under oath anywhere within the United States, to issue orders by either cochairman or any other mem-

ber designated by either cochairman which require witnesses to answer written interrogatories under oath, and to make application for issuance of letters rogatory.

(7) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special subcommittee, acting through either cochairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(8) To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the special subcommittee any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such subcommittee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(9) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the special subcommittee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such subcommittee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the subcommittee, or at a deposition, or at any time or place designated by the subcommittee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(10) To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(11) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned, the services of personnel of such department or agency.

(12) To use, with the prior consent of the chairman or ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such other Senate committee whenever the special subcommittee or either cochairman consider that such action is necessary or appropriate

to enable the special subcommittee to make the investigation and study provided for in this resolution.

(13) To have access through the agency of any members of the special subcommittee, staff director, chief counsel, or any of its investigatory assistants designated by either cochairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the special subcommittee is authorized to investigate or study;

(B) which is in the possession, custody, or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the special subcommittee to prepare for or conduct the investigation and study authorized and directed by this resolution.

(14) To report violations of any law to the appropriate Federal, State, or local authorities.

(15) To expend, to the extent the special subcommittee determines necessary and appropriate, any money made available to such subcommittee by the Senate to make the investigation, study, and reports authorized by this resolution.

(16) Under sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, to inspect and receive for the fiscal years 1977–1992 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the special subcommittee as possible participants, beneficiaries, or intermediaries in the transactions under investigation.

(d) The level of compensation payable to any employee of the special subcommittee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate. No employee of the special subcommittee may receive pay at a rate of pay in excess of the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

PROTECTION OF CONFIDENTIAL INFORMATION

SEC. 6. (a) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the special subcommittee.

(b) The case of any Senator who violates the security procedures of the special subcommittee may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the special subcommittee shall immediately be subject to removal from office or employment with the special subcommittee or shall be subject to such other sanction as may be provided in the rules of the special subcommittee.

(c) Upon the termination of the special subcommittee pursuant to section 9 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the special subcommittee, under appropriate conditions established by such subcommittee, shall be transferred to the National Archives.

RELATION TO OTHER INVESTIGATIONS

SEC. 7. (a) In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution;

(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such investigation,

the special subcommittee is encouraged—

(A) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel;

(B) to seek the full cooperation of all relevant investigatory bodies; and

(C) to seek access to all information which is acquired and developed by such bodies.

(b) The cochairmen shall meet with the independent counsel to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the special subcommittee.

(c) The Senate requests that the independent counsel make available to the special subcommittee, as expeditiously as possible, all documents and information which may assist the special subcommittee in its investigation and study.

SALARIES AND EXPENSES

SEC. 8. Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special subcommittee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(c)(9). Payment of expenses shall be disbursed upon vouchers approved by either cochairman of the special subcommittee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

REPORTS; TERMINATION

SEC. 9. (a)(1) The special subcommittee shall make a final public report to the Senate of the results of the investigation and study conducted by such subcommittee pursuant to this resolution, together with its findings and any recommendations at the earliest practicable date.

(2) The final report of the special subcommittee may be accompanied by whatever confidential annexes are necessary to protect confidential information.

(b) After submission of its final report, the special subcommittee shall conclude its business and close out its affairs as expeditiously as practicable.

SUBCOMMITTEE JURISDICTION AND RULE XXV

SEC. 10. The jurisdiction of the special subcommittee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

POSSIBLE QUESTIONS FOR THE OVERSIGHT BOARD HEARING

Whitewater/Madison:

Secretary Altman, why have you failed to recuse yourself thus far from the RTC's work relating to Madison Guaranty? How many discussions have you had concerning Madison and related matters?

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison Guaranty?

Secretary Altman, has the RTC investigated the Rose law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC? Have you recused yourself from this matter?

Secretary Altman, has the RTC been in contact with the Independent Counsel Robert Fiske? Have you participated in these conversations?

Why has the RTC taken the position that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information? Isn't it true that there is a certain amount of flexibility in interpreting the law regarding this question? Mr. Altman, were you involved in this decision? Were any other Treasury officials involved in this decision?

Could you provide for the hearing record all documents relating to the RTC's investigations of civil or criminal matters relating to Madison?

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee.

Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

Secretary Altman, last year you sent a letter to this committee indicating that the RTC had never missed a statute of limitations deadline, and that therefore an extension of the statutes was not necessary. Apparently no civil suits against directors, officers, or law firms involved with Madison were brought. Does this mean that the Madison situation was reviewed and that a decision was made at some point in the past that a suit would not be brought? When was this decision made?

Minority Acquisition of Institutions:

What is the status of the implementation of the RTC Completion Act that requires new procedures for the acquisition of certain institutions and branches that serve minority neighborhoods?

How many minority bidders have approached the RTC expressing interest in acquiring an institution under this program?

How will the RTC define minority neighborhoods?

How will you the RTC determine whether or not an institution should be part of this program, will this be defined on a deposit basis or branch basis?

How many institutions/branches will be affected?

How will you assure that this is done under the least cost test?

Minority Subcontracting:

What is the status of the implementation of the Completion Act that mandates minority subcontracting on contracts in excess of $500,000?

Under the mandatory subcontracting provision, what amount of subcontracting will the RTC require?

Will the RTC give any consideration to the fact that minority firms may be participating in a contract on a joint venture basis?

What will the RTC do if the prime contractor is a minority or women-owned firm?

Minority Parity Provisions:

What is the status of the implementation of the Completion Act that requires the RTC to maintain parity among groups of minority and women-owned contractors?

How will the RTC balance this requirement in the completion act while not changing the competitiveness of your contracting procedures that were in place prior to the implementation of the Act?

Handicapped contracting:

What steps is the RTC taking to ensure that handicapped individuals are able to compete for contracts?

Minority Contracting Sanctions:

What sanctions is the RTC contemplating?

Statute of Limitations Extension (from the RTC Completion Act):

What is the RTC doing to ensure that the re-opened statutes are being examined for possible recoveries for taxpayers? Do you expect any case to be brought under this provision?

PLS:

What are you planning to do to improve the management of the PLS program?

Have you appointed an AGC for PLS as mandated in the Completion Act?

Whistleblowers:

Why did it take the RTC so long to respond to allegations raised at the Senate Banking Committee's hearing last September?

What actions are you taking to address the serious allegations raised at that hearing?

Is it true that two of the individuals who testified at the hearing have since been fired?

It is my understanding that one of the individuals named in the allegations resulting from the California office has since been promoted is this true? Could you discuss your reasoning behind this promotion?--This relates to Phil Jones

Rent Control:

The RTC chose to appeal the decision involving the Diamond case, ultimately jeopardizing low- and moderate-income families living in rent-controlled or rent-stabilized units in New York City. Can you tell me RTC's position on this case at this time?

Affordable Housing:

The RTC has been discussing a demonstration with HUD whereby RTC would assist HUD with the disposition of certain HUD-owned properties. Where are the discussions relating to this demonstration project? Does the RTC have the authority to provide seller financing with the sale of non-RTC owned properties?

Will the RTC request or support an appropriation (1) to include conservatorship properties in the Affordable Housing Program and (2) to expand the mortgage limits of properties that fall into the Affordable Housing Program?

Stanley Tate:

Why did the Treasury allow Stanley Tate to quit when it was clear that he had a good grasp of the problems at the RTC, and he could bring some private sector expertise towards solving those problems?

Upon departure, Mr. Tate issued a statement which included six criticisms of the RTC. Have you investigated these criticisms? What remedies have you proposed or put in place to correct these problems?

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 27, 1994

Ellen Kulka, Esq.
General Counsel
Resolution Trust Corporation
801 17th Street N.W.
Suite 1025
Washington, D.C. 20434

Dear Ellen:

We have received a request from the Senate Committee on Banking, Housing and Urban Affairs for records regarding, among other things, communications between officials of the White House and the Department of Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association. A copy of the Committee's letter is at Tab A. I understand that you have received a similar request.

In preparing our response to the committee, we have located documents which appear to be copies of RTC records. These documents have previously been reviewed by your staff. They are enclosed with this letter at Tab B. We are returning them to you so that you can make a determination as to whether they are responsive and communicate directly with the Committee about them.

Also enclosed, at Tab C, are Department of the Treasury records in which the RTC may have some interest. Your staff has also reviewed these documents. We would appreciate your reviewing these and advising us of any concerns you may have about them, so that we can take your views into account in responding to the Committee.

If you have any questions about this matter, please get in touch with me at 622-0283 or with Kenneth R. Schmalzbach, Assistant General Counsel or with Stephen J. McHale, Deputy Assistant General Counsel. Mr. Schmalzbach and Mr. McHale can be reached at 622-0450.

Sincerely,

for
Dennis I. Foreman

Enclosures

~~[illegible]~~ 000001

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

June 22, 1994

The Honorable Lloyd Bentsen
Secretary of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Secretary:

On June 21, 1994, the Senate passed Senate Resolution 229, a copy of which is enclosed, directing the Committee on Banking, Housing, and Urban Affairs to conduct hearings on matters specified in the resolution. In preparation for the hearings, we are requesting present and former Treasury Department officials, as shown on the attached initial list, to produce records to the Committee.

As Secretary of the Treasury, you may have custody, control, or possession of records, including records of present and former Department of the Treasury personnel, which relate to the matters specified in the resolution and listed below. Our request embraces these and any other Department of the Treasury records relating to those matters.

Accordingly, please provide to the Committee all such records, regardless of format, that relate in any manner to the following subjects:

(a) communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association;

(b) the Park Service Police investigation into the death of Vincent Foster; and

(c) the way in which White House officials handled documents in the office of Vincent Foster at the time of his death.

To the extent that you or other Treasury officials have gathered documents from individuals and locations throughout the Department of the Treasury, please indicate where and from

The Honorable Lloyd Bentsen
June 22, 1994
Page Two

whom each of those records was obtained. It would also be helpful if you provided a list of the records that you are submitting so that the Committee and your office have a common list of the records supplied by the Department of the Treasury.

Additionally, we request that you provide to the Committee any written policies or descriptions of policies, in effect now or to your knowledge previously, concerning communications between the Department of the Treasury and other executive branch or independent entities, including the White House and the Resolution Trust Corporation.

The records should be delivered to Kelly Cordes, the Committee's Chief Clerk, 534 Dirksen Senate Office Building. As you know, Senate Resolution 229 provides that public hearings on this matter begin no later than July 29, 1994. Therefore, it is necessary that these documents be received by the Committee no later than July 1, 1994, and prior to that date, if possible.

If you have any questions concerning this request, please call Michael Davidson, Senate Legal Counsel, at 224-4435. This request is, of course, an initial request and may be supplemented by additional ones. We recognize that you may wish to designate a Treasury official who will be responsible for responding to this request.

Your cooperation in this matter is greatly appreciated.

Sincerely,

Alfonse D'Amato
Alfonse M. D'Amato
Ranking Member

Don Riegle.
Donald W. Riegle, Jr.
Chairman

Enclosure

Jean Hanson

Madison/Whitewater

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Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.
- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.
- We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.
- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.
- Jean Hanson did check and was told "in due course." I said "fine".

Question:

Why did you brief the White House on those processes?

Answer:

- Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

- Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

- The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal. ✓

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

- No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:

Are you a close friend of the Clintons?

Answer:

- I know them well, yes.

Question:

Do you consider yourself a FOB?

Answer:

- Yes, as I understand that term to be used.

Question:

Do you think your relationship with The President should disqualify you from playing any role in Madison?

Answer:

- As I said, I probably won't be playing any role. If I were to play a role my answer would be no. When I was advised that a referral to Justice was likely, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.
- That would be my stance on Madison. If I received a clear recommendation on it from the chief legal officer, I'd follow it.
- I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

6 (con't.)

Question:

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

Answer:

- No.

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

- We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.

13a

Question:

Does Treasury have any documents relating to Vince Foster's death?

Answer:

- We recently received a Congressional request for such documents. Our search to date had identified several Bureau of Alcohol, Tobacco and Firearms and Secret Service documents.

Question:

What is the Department doing in response to that Congressional request?

Answer:

- We continue to search our files for responsive material. In addition, as you are aware, the jurisdiction of Independent Counsel Robert A. Fiske includes looking into the investigation of Mr. Foster's death. Accordingly, we have referred to the Independent Counsel the documents that we have located and have asked the views on whether they can be released.

Question:

- Why do those bureaus have documents related to the investigation of Mr. Foster's death?

Answer:

- ATF was asked by the Park Police to do laboratory analysis of physical evidence the Park Police had collected in their investigation of Mr. Foster's death. Secret Service generated documents in connection with their responsibility for physical security at the White House, including Mr. Foster's office.

13a (con't.)

Question:

Why don't you release them?

Answer:

- We have an obligation not to jeopardize an ongoing investigation. Although we believe that, at least a portion of them will not be relevant to the investigation, Mr. Fiske is conducting the investigation and it is his decision what documents can be released. We hope that he will give a prompt reply to our request that he make conclusions about these documents.

Question:

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee?

Answer:

- It is the policy of the RTC not to discuss criminal referrals on an institution specific basis;
  - All questions concerning criminal investigations should be directed to the Justice Department, and in the case of Madison Guaranty to Independent Counsel Robert Fiske.

Question:

Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

Answer:

- The Administration did not oppose the RTC Completion Act's extension of the statute of limitations.
- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.
- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

Question:

Did Madison Guaranty matters enter into that decision?

Answer:

- No.

Question:

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

Answer:

- I do not know.

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BERNARD SANDERS, VERMONT

(202) 225-4247

March 1, 1994

The Honorable Roger Altman
Interim CEO
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed is a self explanatory letter to Mr. Bernard Nussbaum et. al. As you know, in my letter of February 3 I had suggested that you recuse yourself from matters pertaining to Madison Guaranty Savings and Loan.

Now, however, based upon your meeting with White House officials on this subject, presumably after receipt of my letter, your resignation from all responsibilities at the RTC appears to be the only ethical option in order.

Sincerely,

James A. Leach
Ranking Member

Enclosure

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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

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MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messers. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

◆

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 3, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts which I had with representatives of the White House on RTC matters and described a meeting which I had.

I would like to expand the record as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.

Sincerely,

Roger C. Altman

801 17th Street, NW Washington, DC 20434

Senator Bond: How was the White House notified of the referral?

Mr. Altman: They weren't notified by the RTC to the best of my knowledge.

Senator Bond: Nobody in your agency to your knowledge advised the White House staff that this was going to be a major--this could be a major source of concern?

Mr. Altman: Not to my knowledge.

Madison/Whitewater: Conversations with White House

Q. Mr. Altman, have you or any of the Treasury officials held any conversations with the White House concerning this matter?

A. I have had one meeting with White House staff on this matter. Jean Hanson, General Counsel of the Treasury, and I met earlier this month with Bernard Nussbaum, White House Counsel, one of his assistants, [Mac McLarty], Harold Ickes, and Margaret Williams.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline. That was: due to the enactment of the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); the extended statute of limitations, as it related to Madison Guaranty, would expire the end of February; and the RTC was in the process of determining whether any claims existed under the extended statute of limitations. Finally, if it were determined that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

I told them that it was my understanding that the RTC's review was on-going and that, as far as I was aware, the RTC had reached no conclusions. I also told them that any decision would be made with complete impartiality. [and that I fully expected to follow the recommendation of the RTC General Counsel on these matters].

It was agreed that any discussions by the RTC on matters that might in any way affect the President or Mrs. Clinton should take place with David Kendall, and not with White House staff.

Q. Mr. Altman, since that time, have you had further discussions with the White House on matters relating to Madison Guaranty or Whitewater?

A.

Q. Mr. Altman, has the White House attempted to influence your decision on these matters in any way?

A. No. It is understood that the RTC must complete the task that it has been given and, of course, the White House respects the independence of the RTC.

Q. Mr. Altman, have you attempted to influence the RTC's review

of the Madison Guaranty matter or the outcome of its decision?

A. No.

Q. Mr. Altman, why did you meet with White House staff on the Madison Guaranty matter?

A. Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers, this was simply a legal briefing with a larger audience.

A. Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

A. The presence of the RTC General Counsel was not necessary for the discussion. We were discussing only the broad procedural framework of the statute of limitations issue. We were not discussing any specifics. The Treasury General Counsel understands the broad issues and has not been involved at all in the review process. She was there to present the broad legal framework but could not have answered questions on specifics even if she had been asked, which she was not.

Monday, January 24, 1994.

- Briefed D'Amato staff on document production and generally discussed statute of limitations issue.

Later in the week (January 26 - 28)

- Conference call on statute of limitations issue with D'Amato's staff. Agreed on February 28 date (with 3 day "window").

Tuesday, February 1, 1994

- Roger Altman letter to:

1) Senator Robert Dole
2) Congresswoman Jan Meyers
3) Congressman William Clinger, Jr.,
4) Congressman Larry Pressler
5) Congressman James Leach
6) Congressman Hamilton Fish, Jr.
7) Congressman Bob Michel; and
8) Senator Alfonse D'Amato

stating that the RTC "is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison" and acknowledging the February 28 anniversary date of the federal takeover of Madison.

Wednesday, February 2, 1994

- White House meeting

Thursday, February 10, 1994

- Meeting with Senator Riegle.

What Conversations Have You Had with the White House on this Matter?

I've had one substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline. That was: due to the enactment of the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); the extended statute of limitations, as it related to Madison Guaranty, would expire the end of February; and the RTC was in the process of determining whether any claims existed under the extended statute of limitations. Finally, if it were determined that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation, from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did ~~we~~ the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties at interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course" "I said fine".

6

Why did you brief the White House on those processes?

Solely to ensure that they understood the legal, procedural, framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Who else attended that meeting?

Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Were there any other conversations at all

The only other discussion – which lasted about five minutes – occurred later when indicated that I was not inclined towards a recusal.

Has the White House attempted to influence your decision on these matters?

No. It is understood that the RTC must complete the task that it has been given and, of course, the White House respects the independence of the RTC.

~~Ms. Altman,~~ Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

No.

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be, discussed.

Duplicate

Madison/Whitewater

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14. Has RTC been contacted by Independent Counsel Robert Fiske? Has Secretary Altman participated in these conversations? 14
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24. What were the internal RTC processes which led to the decision in October to refer this to the Justice Department? 24
25. Who was involved in that decision?. 25

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26. When did the RTC first turn its attention to Madison?. . 26
27. Who in the RTC was involved at the beginning?. 27
28. When did the Madison matter first come to the attention of the RTC's Washington office?. 28
29. Why was the statute of limitations in this matter originally permitted to lapse?. 29
30. Who made the decision to permit that?. 30

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39. In light of the problems with RTC PLS, why do you think that it can adequately investigate the Madison claims? . . 39

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40. Why did the Clinton Administration oppose a retroactive extension of the statute of limitations in the RTC Completion Act? 40
41. Did Madison Guaranty matters enter into that decision?. 41
42. What is the RTC doing to ensure that claims for which the statute of limitations has been extended are being investigated? 42

X. PRIOR REGULATORY HISTORY

43. When did Madison Guaranty collapse? 43

44. Who made the decision to put Madison into conservatorship? 44
45. Tell us about the federal oversight of Madison before the collapse. 45
46. Why was McDougal permitted to loot the institution the way he did?. 46
47. Wasn't that a dereliction of oversight? Who was responsible? 47

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48. Do you think that The President and/or Mrs. Clinton have broken any laws in this matter? 48
49. Have they acted in an ethical fashion? 49
50. Aren't there, at the very least, appearance of impropriety on their part? 50
51. What should be done if it is ultimately determined that laws were broken? 51
52. Has anyone at the RTC spoken to The President's attorney in this matter? Who has had that conversation? 52

XII. OVERSIGHT BOARD

53. Will the Oversight Board play any role at all in RTC decisions on Madison? 53

XIII. CRAVATH

54. Why did the RTC pay such huge fees, some as high as $600 an hour, to the law firm of Cravath, Swain & Moore? 54

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Get the Inventory

Superceded

MADISON / WHITEWATER QUESTIONS

Madison/Whitewater

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Question:

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Answer:

I've had one substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims exiated, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course." I said "fine".

Question:
Why did you brief the White House on those processes?

Answer:
Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:
Who else attended that meeting?
Answer:
Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:
Were there any other conversations at all?
Answer:
The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:
Has the White House attempted to influence your decision on these matters?

Answer:
No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:
Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?
Answer:
No

Question:
Why did the Treasury General Counsel accompany you and not the RTC General Counsel?
Answer:
We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.

WHITEWATER/MADISON:

Question:

Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

Answer:

-- The Treasury did not oppose the RTC Completion Act's extension of the statute of limitations.

-- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.

-- The GAO did a study of the RTC PLS program in response to charges that PLS cases were politicized and that there were instances of precipitous filings of PLS cases because of expiring statute of limitations. The GAO study found no evidence of PLS case politicization or instances of preemptive filings because of expiring statute of limitations.

-- Given the GAO study's conclusion, the need for an extension of the statute of limitations was questionable.

-- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

WHITEWATER/MADISON:

Question:

Did Madison Guaranty matters enter into that decision?

Answer:

No.

WHITEWATER/MADISON: CONVERSATIONS WITH THE WHITE HOUSE

Question:

Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

Answer:

Questions

1) When did Madison Guaranty collapse?

2) Tell us about the federal oversight of Madison before the collapse.

3) When did the RTC first turn its attention to Madison?

4) Who in the RTC was involved at the beginning?

5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

6) When did the Madison matter first come to the attention of the RTC's Washington office?

7) Why was the statute of limitations in this matter originally permitted to lapse?

8) Who made the decision to permit that?

9) Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

10) Did Madison Guaranty matters enter into that decision?

11) Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline?

12) What were the internal RTC processes which led to the decision in October to refer this to the Justice Department?

13) Who was involved in that decision?

14) What is the RTC doing at this very moment to reach a decision on a civil claim?

15) Who at the RTC is doing that work?

16) When will a decision be reached?

17) Tell us about the documents which the RTC provided to Mr. Fiske.

18) What is the RTC doing to get those documents back?

19) How could the RTC make its decision without access to those documents?

20) What discussion with RTC staff have you personally had on Madison?

21) What discussions on it have you had with Secretary Bentsen?

22) What has he said to you about the Madison investigation?

23) Have you issued any instructions to RTC staff on this investigation? What were they?

24) What is being done to safeguard the RTC documents on this case?

25) Who made the decision to put Madison into conservatorship?

26) Why was McDougal permitted to loot the institution the way he did?

27) Wasn't that a dereliction of oversight? Who was responsible?

28) Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

29) Have they acted in an ethical fashion?

30) Aren't there, at the very least, appearances of impropriety on their part?

31) What should be done if it is ultimately determined that laws were broken?

32) Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater?

33) Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

34) Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

35) Will the Oversight Board play any role at all in RTC decisions on Madison?

36) If the RTC were to file a claim in court against the Clintons, how would that work? What would the RTC seek, etc.?

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Madison/Whitewater: Conversations with White House

Q. Mr. Altman, have you or any of the Treasury officials held any conversations with the White House concerning this matter?

A. I have had one meeting with White House staff on this matter. Jean Hanson, General Counsel of the Treasury, and I met earlier this month with Bernard Nussbaum, White House Counsel, one of his assistants, [Mac McLarty], Harold Ickes, and Margaret Williams.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline. That was: due to the enactment of the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); the extended statute of limitations, as it related to Madison Guaranty, would expire the end of February; and the RTC was in the process of determining whether any claims existed under the extended statute of limitations. Finally, if it were determined that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

I told them that it was my understanding that the RTC's review was on-going and that, as far as I was aware, the RTC had reached no conclusions. I also told them that any decision would be made ~~on an arm's length basis~~ [and that I fully expected to follow the recommendation of the RTC General Counsel on these matters]. ~~on an arm's length basis and~~ in complete [illegible].

It was agreed that any discussions by the RTC on matters that might in any way affect the President or Mrs. Clinton should take place with David Kendall, and not with White House staff.

Q. Mr. Altman, since that time, have you had further discussions with the White House on matters relating to Madison Guaranty or Whitewater?

A.

Q. Mr. Altman, has the White House attempted to influence your decision on these matters in any way?

A. ~~Absolutel~~y No~~t~~. It is understood that the RTC must complete the task that it has been given and, of course, the White House respects the independence of the RTC ~~be respected.~~

Q. Mr. Altman, have you attempted to influence the RTC's review

of the Madison Guaranty matter or the outcome of its decision?

A. ~~Absolutely~~ No.

Q. Mr. Altman, why did you meet with White House staff on the Madison Guaranty matter?

A. Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers, this was simply a legal briefing with a larger audience.

A. Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

A. The presence of the RTC General Counsel was not necessary for the discussion. We were discussing only the broad procedural framework of the statute of limitations issue. We were not discussing any specifics. The Treasury General Counsel understands the broad issues and has not been involved at all in the review process. She was there to present the broad legal framework but could not have answered questions on specifics even if she had been asked, which she was not.

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why did you recuse

Madison/Whitewater

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Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

- We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

- Jean Hanson did check and was told "in due course." I said "fine".

Question:

Why did you brief the White House on those processes?

Answer:

- Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

- Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

- The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

- No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:

Are you a close friend of the Clintons?

Answer:

- I know them well, yes.

Question:

Do you consider yourself a FOB?

Answer:

- Yes, as I understand that term to be used.

Question:

Do you think your relationship with The President should disqualify you from playing any role in Madison?

Answer:

- As I said, I probably won't be playing any role. If I were to play a role my answer would be no. When I was advised that a referral to Justice was likely, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.
- That would be my stance on Madison. If I received a clear recommendation on it from the chief legal officer, I'd follow it.
- I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

6 (con't.)

Question:

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

Answer:

- No.

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

- We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.

Question:

Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

Answer:

- The Administration did not oppose the RTC Completion Act's extension of the statute of limitations.
- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.
- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

Question:

Did Madison Guaranty matters enter into that decision?

Answer:

- No.

Question:

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

Answer:

- I do not know.

Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

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- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

- Jean Hanson did check and was told "in due course." I said "fine".

Question:

Why did you brief the White House on those processes?

Answer:

- Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

- Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

- The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

- No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:

Has the RTC, OTS or the Treasury coordinated with the White House on matters related to Madison, including the production of documents pursuant to members' requests?

Answer:

- SEE TAB I, PAGES 4 AND 5.

What Conversations Have You Had with the White House on this Matter?

I've had on, substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

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Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Were there any other conversations at all?

The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Has the White House attempted to influence your decision on these matters?

No. It is understood that the RTC must complete the task that it has been given and, of course, the White House respects the independence of the RTC.

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

No.

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

We discussed only the broad procedural framework fl the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be, discussed.

POSSIBLE QUESTIONS FOR THE OVERSIGHT BOARD HEARING

Whitewater/Madison:

Secretary Altman, why have you failed to recuse yourself thus far from the RTC's work relating to Madison Guaranty? How many discussions have you had concerning Madison and related matters?

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison Guaranty?

Secretary Altman, has the RTC investigated the Rose law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC? Have you recused yourself from this matter?

Secretary Altman, has the RTC been in contact with the Independent Counsel Robert Fiske? Have you participated in these conversations?

Why has the RTC taken the position that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information? Isn't it true that there is a certain amount of flexibility in interpreting the law regarding this question? Mr. Altman, were you involved in this decision? Were any other Treasury officials involved in this decision?

Could you provide for the hearing record all documents relating to the RTC's investigations of civil or criminal matters relating to Madison?

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee.

Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

Secretary Altman, last year you sent a letter to this committee indicating that the RTC had never missed a statute of limitations deadline, and that therefore an extension of the statutes was not necessary. Apparently no civil suits against directors, officers, or law firms involved with Madison were brought. Does this mean that the Madison situation was reviewed and that a decision was made at some point in the past that a suit would not be brought? When was this decision made?

Minority Acquisition of Institutions:

What is the status of the implementation of the RTC Completion Act that requires new procedures for the acquisition of certain institutions and branches that serve minority neighborhoods?

How many minority bidders have approached the RTC expressing interest in acquiring an institution under this program?

How will the RTC define minority neighborhoods?

How will you the RTC determine whether or not an institution should be part of this program, will this be defined on a deposit basis or branch basis?

How many institutions/branches will be affected?

How will you assure that this is done under the least cost test?

Minority Subcontracting:

What is the status of the implementation of the Completion Act that mandates minority subcontracting on contracts in excess of $500,000?

Under the mandatory subcontracting provision, what amount of subcontracting will the RTC require?

Will the RTC give any consideration to the fact that minority firms may be participating in a contract on a joint venture basis?

What will the RTC do if the prime contractor is a minority or women-owned firm?

Minority Parity Provisions:

What is the status of the implementation of the Completion Act that requires the RTC to maintain parity among groups of minority and women-owned contractors?

How will the RTC balance this requirement in the completion act while not changing the competitiveness of your contracting procedures that were in place prior to the implementation of the Act?

Handicapped contracting:

What steps is the RTC taking to ensure that handicapped individuals are able to compete for contracts?

Minority Contracting Sanctions:

What sanctions is the RTC contemplating?

Statute of Limitations Extension (from the RTC Completion Act):

What is the RTC doing to ensure that the re-opened statutes are being examined for possible recoveries for taxpayers? Do you expect any case to be brought under this provision?

PLS:

What are you planning to do to improve the management of the PLS program?

Have you appointed an AGC for PLS as mandated in the Completion Act?

Whistleblowers:

Why did it take the RTC so long to respond to allegations raised at the Senate Banking Committee's hearing last September?

What actions are you taking to address the serious allegations raised at that hearing?

Is it true that two of the individuals who testified at the hearing have since been fired?

It is my understanding that one of the individuals named in the allegations resulting from the California office has since been promoted is this true? Could you discuss your reasoning behind this promotion?--This relates to Phil Jones

Rent Control:

The RTC chose to appeal the decision involving the Diamond case, ultimately jeopardizing low- and moderate-income families living in rent-controlled or rent-stabilized units in New York City. Can you tell me RTC's position on this case at this time?

Affordable Housing:

The RTC has been discussing a demonstration with HUD whereby RTC would assist HUD with the disposition of certain HUD-owned properties. Where are the discussions relating to this demonstration project? Does the RTC have the authority to provide seller financing with the sale of non-RTC owned properties?

Will the RTC request or support an appropriation (1) to include conservatorship properties in the Affordable Housing Program and (2) to expand the mortgage limits of properties that fall into the Affordable Housing Program?

Stanley Tate:

Why did the Treasury allow Stanley Tate to quit when it was clear that he had a good grasp of the problems at the RTC, and he could bring some private sector expertise towards solving those problems?

Upon departure, Mr. Tate issued a statement which included six criticisms of the RTC. Have you investigated these criticisms? What remedies have you proposed or put in place to correct these problems?

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

FAXED

March 2, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

I testified before your Committee last Thursday in connection with the semi-annual Oversight hearings on the RTC. There was a discussion, as you remember, of a meeting which I had with representatives of the White House. As I indicated, no non-public information was provided at that meeting on any aspect of the Madison Guaranty matter.

When Senator Bond asked me at that hearing whether any other communications had taken place between the RTC and the White House, my response was "not to my knowledge". I still have no knowledge that any such discussions occurred.

But, I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to the handling of press inquiries.

I would appreciate the opportunity to amend the record accordingly.

Sincerely,

Roger C. Altman

801 17th Street, NW Washington, DC 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 3, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts which I had with representatives of the White House on RTC matters and described a meeting which I had.

I would like to expand the record as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.

Sincerely,

Roger C. Altman

801 17th Street, NW Washington, DC 20434

RTC
Resolution Trust Corporation

FAX COVER SHEET

DATE: 3/1/94

TO: DENNIS FOREMAN
DEPUTY GENERAL COUNSEL
TREASURY

- 801-754-6720 -

FROM: ART KUSINSKI
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481
TELEPHONE #: (202) 416-2157 (ask for Robin McGill)

TOTAL PAGES: ~~6~~ TO FOLLOW

COMMENTS: Per your request –
Art –

Notice: For our records please call upon receipt of this message atthe aforementioned telephone number. If for any reason this message is inadvertently sent to you, please be advised that dissemination, distribution, or copying of this communication is prohibited. It would be greatly appreciated if the original message is returned to us at the address below (via U.S. Mail). Thanking you in advance.

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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
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(202) 225-4247

** FACSIMILE **

DATE:	March 1, 1994
TO:	Mr. Art Kusinski
FROM:	Congressman James A. Leach

Number of Pages to Follow: 5

Enclosures and the orginal letter are being sent via mail.

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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" (see attached letters). Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

- We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

- Jean Hanson did check and was told " due course." I said "fine".

Friday, January 14, 1994

- Briefed D'Amato staff on document production and generally discussed statute of limitations issue.

- Later in the week (January 26 - 28)
Conference call on statute of limitations issue with D'Amato's staff. Agreed on February 28 date (with 3 day "window").

Tuesday, February 1, 1994

- Roger Altman letter to:

1) Senator Robert Dole
2) Congresswoman Jan Meyers
3) Congressman William Clinger, Jr.,
4) Congressman Larry Pressler
5) Congressman James Leach
6) Congressman Hamilton Fish, Jr.
7) Congressman Bob Michel; and
8) Senator Alfonse D'Amato

stating that the RTC "is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison" and acknowledging the February 28 anniversary date of the federal takeover of Madison.

Wednesday, February 2, 1994

- White House meeting

Thursday, February 10, 1994

- Meeting with Senator Riegle and staff.

Question:

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Answer:

●

-- Is the RTC's policy related to this document production request consistent with the Justice Department and other executive agencies?

-- Have the RTC and the OTS coordinated their responses to the requests for documents related to Madison?

-- Has the RTC, OTS or the Treasury coordinated with the White House on matters related to Madison, including the production of documents pursuant to members' requests?

-- Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison?

-- Has the RTC investigated the Rose Law firm and whether or not it correctly represented possible conflicts when soliciting business with the FDIC/RTC?

-- Mr. Altman have you recused yourself from this matter?

Madison/Whitewater: Conversations with White House

Q. Mr. Altman, have you or any of the Treasury officials held any conversations with the White House concerning this matter?

A. I have had one meeting with White House staff on this matter. Jean Hanson, General Counsel of the Treasury, and I met earlier this month with Bernard Nussbaum, White House Counsel, one of his assistants, [Mac McLarty], Harold Ickes, and Margaret Williams.

The purpose of the meeting was to describe the reason for the then impending February 28 deadline. That was: due to the enactment of the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); the extended statute of limitations, as it related to Madison Guaranty, would expire the end of February; and the RTC was in the process of determining whether any claims existed under the extended statute of limitations. Finally, if it were determined that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

I told them that it was my understanding that the RTC's review was on-going and that, as far as I was aware, the RTC had reached no conclusions. I also told them that any decision would be made on an arm's-length basis [and that I fully expected to follow the recommendation of the RTC General Counsel on these matters].

It was agreed that any discussions by the RTC on matters that might in any way affect the President or Mrs. Clinton should take place with David Kendall, and not with White House staff.

Q. Mr. Altman, since that time, have you had further discussions with the White House on matters relating to Madison Guaranty or Whitewater?

A.

Q. Mr. Altman, has the White House attempted to influence your decision on these matters in any way?

A. Absolutely not. It is understood that the RTC must complete the task that it has been given and the independence of the RTC be respected.

Q. Mr. Altman, have you attempted to influence the RTC's review

of the Madison Guaranty matter or the outcome of its decision?

A. Absolutely not.

Q. Mr. Altman, why did you meet with White House staff on the Madison Guaranty matter?

A. Solely to ensure that they understood the legal framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers, this was simply a legal briefing with a larger audience.

A. Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

A. The presence of the RTC General Counsel was not necessary for the discussion. We were discussing only the broad framework of the statute of limitations issue. We were not discussing any specifics. The Treasury General Counsel understands the broad issues and has not been involved at all in the review process. She was there to present the broad legal framework but could not have answered questions on specifics even if she had been asked, which she was not.

QUESTIONS RELATED TO THE RTC/MADISON GUARANTY MATTER

-- Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?

-- The RTC has received numerous requests from Members of Congress (including individual members of this Committee) for copies of documents related to Madison Guaranty, can you tell us why the RTC has not provided those documents to the requesting Members?

-- Haven't you refused to provide specific information to members of the Committee and their staffs which they have advised you is extremely important to their carrying out their oversight duties of the RTC?

-- Why has the RTC taken the position that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information?

-- Aren't you hindering the work of this Committee by not providing the material requested by the members of this Committee?

-- Has the RTC consistently applied this policy for all document requests by individual Members of Congress?

-- Isn't it true that there is a certain amount of flexibility in interpretation of the law regarding this question?

-- If a member of this Committee (minority member) who is a participant in this hearing were to formally request that you supply the material previously requested, what would your response be?

-- Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

-- Is the RTC's policy related to this document production request consistent with the Justice Department and other executive agencies?

-- Have the RTC and the OTS coordinated their responses to the requests for documents related to Madison?

-- Has the RTC, OTS or the Treasury coordinated with the White House on matters related to Madison, including the production of documents pursuant to members' requests?

-- Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison?

-- Has the RTC investigated the Rose Law firm and whether or not it correctly represented possible conflicts when soliciting business with the FDIC/RTC?

-- Mr. Altman have you recused yourself from this matter?

R. Altman

Questions

1) When did Madison Guaranty collapse?

2) Tell us about the federal oversight of Madison before the collapse.

3) When did the RTC first turn its attention to Madison?

4) Who in the RTC was involved at the beginning?

5) Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

6) When did the Madison matter first come to the attention of the RTC's Washington office?

7) Why was the statute of limitations in this matter originally permitted to lapse?

8) Who made the decision to permit that?

9) Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

10) Did Madison Guaranty matters enter into that decision?

11) Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline?

12) What were the internal RTC processes which led to the decision in October to refer this to the Justice Department?

13) Who was involved in that decision?

14) What is the RTC doing at this very moment to reach a decision on a civil claim?

15) Who at the RTC is doing that work?

16) When will a decision be reached?

17) Tell us about the documents which the RTC provided to Mr. Fiske.

18) What is the RTC doing to get those documents back?

19) How could the RTC make its decision without access to those documents?

20) What discussion with RTC staff have you personally had on Madison?

21) What discussions on it have you had with Secretary Bentsen?

22) What has he said to you about the Madison investigation?

23) Have you issued any instructions to RTC staff on this investigation? What were they?

24) What is being done to safeguard the RTC documents on this case?

25) Who made the decision to put Madison into conservatorship?

26) Why was McDougal permitted to loot the institution the way he did?

27) Wasn't that a dereliction of oversight? Who was responsible?

28) Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

29) Have they acted in an ethical fashion?

30) Aren't there, at the very least, appearances of impropriety on their part?

31) What should be done if it is ultimately determined that laws were broken?

32) Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater?

33) Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

34) Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

35) Will the Oversight Board play any role at all in RTC decisions on Madison?

36) If the RTC were to file a claim in court against the Clinton, how would that work? What would the RTC seek, etc.?

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.March 3, 1994.....The Honorable Donald W. Riegle, Jr..United States Senate.1
05 Dirksen Senate Office Building.Washington, D.C.  20510..Dear Senator Riegle
:..As you know,  I testified before your Committee last week in connection wit
h the semi.annual Oversight hearings on the RTC.  I was asked about any conta
cts which I had with.representatives of the White House on RTC matters and des
cribed a meeting which I had...I would like to expand the record as follows.
First, to the best of my recollection, no non.public information was provided
on this case to representatives of the White House during.that discussion.  Se
cond, it is my understanding that RTC staff had already had discussions.with S
enator D'Amato's staff on statute of limitations issues.  Third, the Treasury
General.Counsel, who also attended the meeting, has advised me that before tha
t meeting she sat.down with this Department's designated Ethics Officer.  She
informed him of the purposes of.the meeting and asked his view.  He advised he
r that he saw no problem...In short, there was no discussion whatsoever on the
 substance of this case.  That's because I.never have had, nor have, any knowl
edge of the substance.  I have received no documents in.that regard, nor other
wise received any information on the substance of this matter.........x....'.'
.......................h.h..........@..    Sincerely,..........x....'.'.....
...................h.h..........@..Roger C. Altman

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.'.......................h.h..........@..March 11, 1994....The Honorable Don
ald Riegle.United States Senate.105 Dirksen Senate Office Building.Washington,
 D.C.  20510..Dear Senator Riegle:..When I testified before your Committee twe
lve days ago, I was asked about contacts with.White House personnel on any asp
ect of the Madison Guaranty matter.  I cited one meeting.which addressed only
generic RTC procedures which would have applied to any case.involving a statue
 of limitations.  There was no substantative discussion of the case itself. .I
ndeed, that would have been impossible because I know nothing of the substance
 of the.case.  I've never received a single document or a word of briefing on
it.  ..For obvious reasons, I have been reviewing all my files and other infor
mation which could .possibly pertain to this matter.  I would like to amend th
e record to reflect one additional.contact.  One or two days after my meeting,
 there was a very brief discussion on the issue of .recusal.  There was no dis
cussion whatsoever of the case itself.  The conversation lasted .five minutes
or less and included me and Harold Ickes of the White House staff.  There may.
have been one or two others in the room, but I cannot recall...The purpose of
both meetings was to provide notification.  At neither meeting did I seek.advi
ce, nor was it given. . .I am sending this letter immediately to be sure that
the record is as complete as possible........x....'.'.......................
h.h.........@..     Sincerely,...........x....'.'.......................h.h.
.........@..Roger C. Altman

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Sector 27776:
ing any specifics.  The Treasury General Counsel.understands the broad issues an
d has not been involved at.all in the review process.  She was there to present
the.broad legal framework but could not have answered questions.on specifics eve
n if she had been asked, which she was not..(#........"...............0*0*0*....
......"..............?.....<........Cravath Bill.............?. ...<.....Q...X..
...x..I understand that [a mega.amount] has been paid to the law.firm of Cravath
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Sector 28348:
adison Guaranty, would expire the end of.February; and the RTC was in the proces
s of determining whether.any claims existed under the extended statute of limita
tions. .Finally, if it were determined that any such claims existed, the.RTC wou
ld have to determine whether to seek a tolling agreement.or commence litigation.
........x..I told them that it was my understanding that the RTC's.review was on
.going and that, as far as I was aware, the RTC had.reached no conclusions. I a
lso told them that any decision

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FILENAME: A:\XTRACT\28349.DAT      MON 3/21/1994, 13:29

DISK 115257


Sector 28349:
would.be made with complete impartiality. [and that I fully expected to.follow t
he recommendation of the RTC General Counsel on these.matters].........x..It was
 agreed that any discussions by the RTC on matters.that might in any way affect
the President or Mrs. Clinton should.take place with David Kendall, and not with
 White House staff...........?.....<.....Q...X.....x..Mr. Altman, since that tim
e, have you had further.discussions with the White House on matters relating to.
Madison Guaranty or Whitewater?.
```

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FILENAME: A:\XTRACT\28350.DAT     MON 3/21/1994, 13:30

DISK 115257


Sector 28350:
(#.....A.............?..#..<.....Q...X.....x..Mr. Altman, has the White House at
tempted to influence your.decision on these matters in any way?.(#.............?
.H&..<.....A...X.....x..No.  It is understood that the RTC must complete the tas
k.that it has been given and, of course, the White House.respects the independen
ce of the RTC..(#.............?.h)..<.....Q...X.....x..Mr. Altman, have you atte
mpted to influence the RTC's review.."...h)..........0*0*0*.....1...."....of the
 Madison Guaranty matter or the
```

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FILENAME: A:\XTRACT\29621.DAT     MON 3/21/1994, 13:50

DISK 115257


Sector 29621:
t.  I also said that I was reserving judgment on a recusal.  ..We were only aske
d one question.  Did we intend to provide the same briefing on the RTC's.process
es to attorneys for the parties at interest.  I said that I assumed so but would
 check.with the RTC General Counsel...Jean Hanson did check and was told "in due
 course"  "I said fine"....."..............0*0*0*.........."...........Y.....-
.................Why did you brief the White House on those processes?..........
..Y.....-........A...X.....x..So
```

```
FILENAME: A:\XTRACT\29622.DAT     MON 3/21/1994, 13:50

DISK 115257


Sector 29622:
lely to ensure that they understood the legal, procedural, framework within whic
h.the RTC was working.  (If you recall, at that time the February 28 date was th
e.........Y.....-.....subject of ...major... attention in the Congress and the p
ress.)  It is not uncommon for.meetings of this type to take place.  The meeting
 could have taken place between the.lawyers, this was simply a legal briefing wi
th a larger audience..(#.............Y.1...-.................Who else attended t
hat meeting?......Mr. Ickes, Ms.
```

```
FILENAME: A:\XTRACT\29623.DAT     MON 3/21/1994, 13:50

DISK 115257


Sector 29623:
 Williams and one of  Mr. Nussbaum's assistants............Y....-.......A.....
....Were there any other conversations at all.....The only other discussion ..
which lasted about five minutes .. occurred later when indicated.that I was not
inclined towards a recusal..........Y.K...-.................Has the White House
 attempted to influence your decision on these matters...?...No.  It is understo
od that the RTC must complete the task that it has been given and, of.course, th
e White House respects the indep
```

```
FILENAME: A:\XTRACT\29684.DAT     MON 3/21/1994, 13:52

DISK 115257


Sector 29684:
aranty, would expire the end of February; and the.RTC was in the process of dete
rmining whether any claims existed under the extended statute.of limitations.  F
inally, if it were determined that any such claims existed, the RTC would.have t
o determine whether to seek a tolling agreement or commence litigation...We made
 clear that we had no idea at all what decision would be reached.  I did say,.ho
wever, that if I received a clear recommendation from the RTC's chief legal offi
cer, I.would follow it.  I also
```

Madison/Whitewater

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Question:

Are you a close friend of the Clintons?

Answer:

- I know them well, yes.

Question:

Do you consider yourself a FOB?

Answer:

- Yes, as I understand that term to be used.

Question:

Do you think your relationship with The President should disqualify you from playing any role in Madison?

Answer:

- As I said, I probably won't be playing any role. If I were to play a role my answer would be no. When I was advised that a referral to Justice was likely, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.
- That would be my stance on Madison. If I received a clear recommendation on it from the chief legal officer, I'd follow it.
- I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

6 (con't.)

Question:

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

Answer:

- No.

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

- **We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.**

Question:

Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

Answer:

- The Administration did not oppose the RTC Completion Act's extension of the statute of limitations.
- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.
- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

Question:

Did Madison Guaranty matters enter into that decision?

Answer:

- No.

Question:

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

Answer:

- I do not know.

HENRY B GONZALEZ TEXAS, CHAIRMAN

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WASHINGTON, DC 20515-6050

[illegible]
BILL McCOLLUM FLORIDA
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DOUG BEREUTER NEBRASKA
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MICHAEL CASTLE DELAWARE
PETER KING NEW YORK

BERNARD SANDERS VERMONT

(202) 225-4247

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

4

Talking points for Roger Altman: informational meeting with Mack McLarty 2/2/94

o RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

o Under the RTC Completion Act, the statute of limitations has been extended to five years. The extension is retroactive for claims involving fraud or intentional misconduct resulting in unjust enrichment or substantial loss to the institution.

o The retroactive five-year extension relating to Madison Guaranty will expire on February 28, 1994.

o The only claims that could still exist as a result of the five year retroactive extension are those relating to fraud or intentional misconduct. All other claims, including any based on negligence or gross negligence, have lapsed.

o If any claim relating to fraud or intentional misconduct does exist, the RTC has three choices: (1) allow the claim to lapse on 2/28/94; (2) commence litigation to preserve it; or (3) enter into a tolling agreement with the relevant party to extend the statute of limitations, giving the RTC additional time to investigate and determine whether to commence litigation.

o The RTC can enter into a tolling agreement only if the other party agrees.

o There must be a basis to bring a lawsuit; frivolous claims will be dismissed and can subject the attorneys bringing the suit to sanctions by the court.

o The RTC is currently reviewing the Madison Guaranty situation to determine if any claims exist under the Completion Act. (See 2/1/94 letter to Dole.)

o If it is decided that any claim does exist, the RTC will have to determine which of the three alternatives to choose.

o The work is being supervised by Ellen Kulka, the new General Counsel, and by Jack Ryan, the new interim Deputy C.E.O.

o It is not certain when the analysis will be completed, but it will be before February 28.

o I have decided that I will recuse myself from the decision making process, as interim C.E.O. of the RTC, because of my relationship with the President and Mrs. Clinton.

JH

Outline of RTC/Madison Guaranty Issues:

- RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

3/8/94
To: Howard Schloss
I cannot undertake to revise or review this letter because it relates to information within Roger's possession.
Jean Hanson

March 8, 1994

The Honorable Donald Riegle
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

When I testified before your Committee twelve days ago, I was asked about contacts with White House personnel on any aspect of the Madison Guaranty matter. I cited one meeting which addressed only generic RTC procedures which would have applied to any case involving a statue of limitations. There was no substantative discussion of the case itself. Indeed, that would have been impossible because I know nothing of the substance of the case. I've never received a single document or a word of briefing on it.

For obvious reasons, I have been reviewing all my files and other information which could possibly pertain to this matter. I have recalled one additional contact. One or two days after my meeting, there was a brief encounter and discussion on my recusal. It lasted five minutes or so and included me and Harold Ickes of the White House staff. There may have been one or two others in the room, but I cannot recall.

I am sending this letter immediately to be sure that the record is as complete as possible.

Sincerely,

Roger C. Altman

801 17th Street, NW Washington, DC 20434

RTC
Resolution Trust Corporation

FAX COVER SHEET

DATE: 3/1/94

TO: DENNIS FOREMAN
DEPUTY GENERAL COUNSEL
TREASURY

FROM: ART KUSINSKI
OFFICE OF ETHICS

FAX NUMBER: (202) 416-2481
TELEPHONE #: (202) 416-2157 (ask for Robin McGill)

TOTAL PAGES: 6 TO FOLLOW

COMMENTS: Per your request -
Art

Notice: For our records please call upon receipt of this message atthe aforementioned telephone number. If for any reason this message is inadvertently sent to you, please be advised that dissemination, distribution, or copying of this communication is prohibited. It would be greatly appreciated if the original message is returned to us at the address below (via U.S. Mail). Thanking you in advance.

801 17th Street, NW ■ Washington, DC 20434-0001

976-2421

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
[illegible]

000145

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COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

RECEIVED RT
MAR 1 4 27 PM
OFFICE OF ETH

JAMES A. LEACH, IOWA
[illegible]

** FACSIMILE **

DATE: March 1, 1994

TO: Mr. Art Rusinski

FROM: Congressman James A. Leach

Number of Pages to Follow: 5

Enclosures and the orginal letter are being sent via mail.

[illegible]

000158

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

[illegible]

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

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> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

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It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-5 Conflicts of interest.

> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

13a

Question:

Does Treasury have any documents relating to Vince Foster's death?

Answer:

- We recently received a Congressional request for such documents. Our search to date had identified several Bureau of Alcohol, Tobacco and Firearms and Secret Service documents.

Question:

What is the Department doing in response to that Congressional request?

Answer:

- We continue to search our files for responsive material. In addition, as you are aware, the jurisdiction of Independent Counsel Robert A. Fiske includes looking into the investigation of Mr. Foster's death. Accordingly, we have referred to the Independent Counsel the documents that we have located and have asked the views on whether they can be released.

Question:

- **Why do those bureaus have documents related to the investigation of Mr. Foster's death?**

Answer:

- **ATF was asked by the Park Police to do laboratory analysis of physical evidence the Park Police had collected in their investigation of Mr. Foster's death. Secret Service generated documents in connection with their responsibility for physical security at the White House, including Mr. Foster's office.**

13a (con't.)

Question:

Why don't you release them?

Answer:

- We have an obligation not to jeopardize an ongoing investigation. Although we believe that, at least a portion of them will not be relevant to the investigation, Mr. Fiske is conducting the investigation and it is his decision what documents can be released. We hope that he will give a prompt reply to our request that he make conclusions about these documents.

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PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 225-4247

**** FACSIMILE ****

DATE:	March 1, 1994
TO:	Mr. Roger Altman
FROM:	Congressman James A. Leach

Number of Pages to Follow: 5

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(202) 225-4247

March 1, 1994

The Honorable Roger Altman
Interim CEO
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed is a self explanatory letter to Mr. Bernard Nussbaum et. al. As you know, in my letter of February 3 I had suggested that you recuse yourself from matters pertaining to Madison Guaranty Savings and Loan.

Now, however, based upon your meeting with White House officials on this subject, presumably after receipt of my letter, your resignation from all responsibilities at the RTC appears to be the only ethical option in order.

Sincerely,

James A. Leach
Ranking Member

Enclosure

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

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(202) 225-4247

March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
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> (e) making an RTC decision outside official channels; or,
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> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

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impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

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> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

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With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

MEMORANDUM FOR DEPUTY SECRETARY ALTMAN

FROM: JEAN E. HANSON

SUBJECT: Conversation with Peter Knight

Peter Knight had not had an opportunity to prepare a chronology of RTC contacts with Senator D'Amato's staff. However, he gave me the following information which I am asking him to confirm.

Monday, January 24, 1994

- Peter Knight was contacted by Senator D'Amato's staff to discuss the Madison Guaranty situation. A meeting was requested with the heads of PLS and investigations; that was declined. This was the first contact from D'Amato's staff on Madison Guaranty.
- Later that day, Jack Ryan and Peter Knight met with Senator D'Amato's staff as requested.
    - D'Amato's staff present were: Howard M~~u~~ennell, staff director; Ray Natter, general counsel; and Doug Nappi.
    - The discussion focused on document production, i.e., what the RTC believed could and could not be provided.
    - There were also a discussion of the statute of limitations on Madison Guaranty and when it was expected to expire. Ray Natter suggested that the statute of limitations would not expire until August 1994. He was told the RTC would look into that and discuss it further with him.

Later that week (Wednesday - Friday, January 26-28)

- Peter Knight held a conference call with Mark Gabrellian of the RTC legal staff and Ray Natter to discuss the expiration of the statute of limitations. After discussing the legal issues, Mr. Natter agreed that the statute of limitation on Madison Guaranty would expire prior to August. The exact date of the expiration had a three day time span (2/28 - 3/2) because of historical actions in connection with

Madison Guaranty's takeover. February 28 was the most conservative date (and therefore most cautious, from the RTC's point of view).

Later that week (Wednesday - Friday, January 26-28) or the following Monday, January 31.

- Peter Knight, Jack B~~o~~inkley and Casey Carter met with Senator D'Amato's staff to discuss the general process of document production.

Monday, January 24, 1994

- Briefed D'Amato staff on document production and generally discussed statute of limitations issue.

Later in the week (January 26 - 28)

- Conference call on statute of limitations issue with D'Amato's staff. Agreed on February 28 date (with 3 day "window").

Tuesday, February 1, 1994

- Roger Altman letter to:

  1) Senator Robert Dole
  2) Congresswoman Jan Meyers
  3) Congressman William Clinger, Jr.,
  4) Congressman Larry Pressler
  5) Congressman James Leach
  6) Congressman Hamilton Fish, Jr.
  7) Congressman Bob Michel; and
  8) Senator Alfonse D'Amato

stating that the RTC "is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison" and acknowledging the February 28 anniversary date of the federal takeover of Madison.

Wednesday, February 2, 1994

- White House meeting

Thursday, February 10, 1994

- Meeting with Senator Riegle.

Chronology

September 29th - Jean Hanson/Bernie Nussbaum Mtg.

October 8th - RTC Criminal Referral to justice

______ ~~Jean Hanson/Bernie Nussbaum Mtg.~~

[illegible] Jack DeVore, Jean Hanson, Josh Steiner / W.H. Meeting

January 24th. - RTC Staff Briefing of D'Amato's staff

January 26-28th. - RTC Staff conference call

Briefings

① would he like it on his desk at start of each day.?

2 Times Per Week → [illegible] T, TH.

START TIME.?

15-20 MINUTES.

② Women in Govt. Relations - Jobs.

Peggy R.
unavailable
on Tues. Morning
(TESTIMONY).

PETER KNIGHT

- Wanted to express his Concern that it not be used to [illegible] show that it was a briefing on Madison

  Peter wants to be sure that this meeting is not characterized as a briefing on Madison.

- "Her memo accurately reflects my conversation with her."

  - according to Jack and Peter.

[illegible] was there anything you needed to add to this to make it complete.

Talking points for Roger Altman: informational meeting with Mack McLarty 2/2/94

o RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

o Under the RTC Completion Act, the statute of limitations has been extended to five years. The extension is retroactive for claims involving fraud or intentional misconduct resulting in unjust enrichment or substantial loss to the institution.

o The retroactive five-year extension relating to Madison Guaranty will expire on February 28, 1994.

o The only claims that could still exist as a result of the five year retroactive extension are those relating to fraud or intentional misconduct. All other claims, including any based on negligence or gross negligence, have lapsed.

o If any claim relating to fraud or intentional misconduct does exist, the RTC has three choices: (1) allow the claim to lapse on 2/28/94; (2) commence litigation to preserve it; or (3) enter into a tolling agreement with the relevant party to extend the statute of limitations, giving the RTC additional time to investigate and determine whether to commence litigation.

o The RTC can enter into a tolling agreement only if the other party agrees.

o There must be a basis to bring a lawsuit; frivolous claims will be dismissed and can subject the attorneys bringing the suit to sanctions by the court.

o The RTC is currently reviewing the Madison Guaranty situation to determine if any claims exist under the Completion Act. (See 2/1/94 letter to Dole.)

o If it is decided that any claim does exist, the RTC will have to determine which of the three alternatives to choose.

o The work is being supervised by Ellen Kulka, the new General Counsel, and by Jack Ryan, the new interim Deputy C.E.O.

o It is not certain when the analysis will be completed, but it will be before February 28.

o I have decided that I will recuse myself from the decision making process, as interim C.E.O. of the RTC, because of my relationship with the President and Mrs. Clinton.

Subsequent to
Revision of
February 2nd, '94
Talking pts.

Outline of RTC/Madison Guaranty Issues:

- RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

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o If it is decided that any claim does exist, the RTC will have to determine which of the three alternatives to choose.

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00181

94-131519

Congress of the United States
House of Representatives
Washington, DC 20515

March 7, 1994

Honorable Lloyd Bentsen
Secretary of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Bentsen:

This letter is to request that you immediately take action to have Deputy Secretary of the Treasury Roger Altman removed from any and all responsibilities related to the Resolution Trust Corporation. As part of our oversight responsibilities on our respective Banking Committees, we believe that any actions taken by the RTC are subject to our scrutiny.

In light of the fact that you have requested an investigation by the Office of Government Ethics, and federal grand jury subpoenas have been issued regarding Mr. Altman's meetings with White House officials on matters under his control as Acting Director of the Resolution Trust Corporation, we believe this action is warranted.

We support your call for an independent investigation of possible breaches of ethical standards brought about by the much publicized meetings between Mr. Altman and White House officials. However, we believe that holding these meetings in any event has compromised Mr. Altman's stature as the head of an independent federal agency.

Your prompt consideration of this request is appreciated.

Sincerely,

JIM LEACH
Member of Congress

Alfonse D'Amato
ALFONSE D'AMATO
United State Senator

Sam Johnson
SAM JOHNSON
Member of Congress

Bill McCollum
BILL MCCOLLUM
Member of Congress

00182

94-131497

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 7, 1994

Robert B. Fiske, Jr.
Independent Counsel
Suite 490 N
1001 Pennsylvania Avenue, NW.
Washington, DC 20004

Dear Mr. Fiske:

This Office received a letter dated March 3, 1994, from Lloyd Bentsen, Secretary of the Treasury, asking for our views regarding certain actions that may have been taken by members of his staff. We earlier received a letter dated March 1, 1994, from Representative James Leach, Ranking Member of the Committee on Banking, Finance and Urban Affairs, requesting our review and advice as to whether a meeting between three White House officials and Roger Altman, Interim CEO of the Resolution Trust Corporation and Deputy Secretary of the Treasury, "violated any guidelines of government ethics, regulations, or law." Copies of both letters are enclosed for your information.

Because media reports have indicated your office has issued subpoenas to certain Treasury and White House officials, we would like to meet with you and/or representatives of your office before proceeding in any fashion with respect to these two requests. I am being assisted by Stuart Rick, Associate General Counsel, in this matter. We can both be reached at (202) 523-5377.

Sincerely,

Jane S. Ley

Jane S. Ley
Deputy General Counsel

Enclosures

cc: ✓The Honorable Lloyd Bentsen
Secretary of the Treasury

The Honorable James Leach
U.S. House of Representatives

MEMORANDUM FOR DEPUTY SECRETARY ALTMAN

FROM: JEAN E. HANSON

SUBJECT: Conversation with Peter Knight

Peter Knight had not had an opportunity to prepare a chronology of RTC contacts with Senator D'Amato's staff. However, he gave me the following information which I am asking him to confirm.

Monday, January 24, 1994

- Peter Knight was contacted by Senator D'Amato's staff to discuss the Madison Guaranty situation. A meeting was requested with the heads of PLS and investigations; that was declined. This was the first contact from D'Amato's staff on Madison Guaranty.
- Later that day, Jack Ryan and Peter Knight met with Senator D'Amato's staff as requested.
    - D'Amato's staff present were: Howard M~~u~~ennell, staff director; Ray Natter, general counsel; and Doug Nappi.
    - The discussion focused on document production, i.e., what the RTC believed could and could not be provided.
    - There were also a discussion of the statute of limitations on Madison Guaranty and when it was expected to expire. Ray Natter suggested that the statute of limitations would not expire until August 1994. He was told the RTC would look into that and discuss it further with him.

Later that week (Wednesday - Friday, January 26-28)

- Peter Knight held a conference call with Mark Gabrellian of the RTC legal staff and Ray Natter to discuss the expiration of the statute of limitations. After discussing the legal issues, Mr. Natter agreed that the statute of limitation on Madison Guaranty would expire prior to August. The exact date of the expiration had a three day time span (2/28 - 3/2) because of historical actions in connection with

Madison Guaranty's takeover. February 28 was the most conservative date (and therefore most cautious, from the RTC's point of view).

Later that week (Wednesday - Friday, January 26-28) or the following Monday, January 31.

- Peter Knight, Jack B~~o~~inkley and Casey Carter met with Senator D'Amato's staff to discuss the general process of document production.

Monday, January 24, 1994

- Briefed D'Amato staff on document production and generally discussed statute of limitations issue.

Later in the week (January 26 - 28)

- Conference call on statute of limitations issue with D'Amato's staff. Agreed on February 28 date (with 3 day "window").

Tuesday, February 1, 1994

- Roger Altman letter to:

1) Senator Robert Dole
2) Congresswoman Jan Meyers
3) Congressman William Clinger, Jr.,
4) Congressman Larry Pressler
5) Congressman James Leach
6) Congressman Hamilton Fish, Jr.
7) Congressman Bob Michel; and
8) Senator Alfonse D'Amato

stating that the RTC "is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison" and acknowledging the February 28 anniversary date of the federal takeover of Madison.

Wednesday, February 2, 1994

- White House meeting

Thursday, February 10, 1994

- Meeting with Senator Riegle.

Chronology

September 29th - Jean Hanson/Bernie Nussbaum Mtg.

October 8th - RTC Criminal Referral to justice

~~Jean Hanson/Bernie Nussbaum Mtg.~~

10/11 Jack DeVore, Jean Hanson, Josh Steiner/W.H. Meeting

January 24th. - RTC Staff Briefing of D'Amato's staff

January 26-28th. - RTC Staff conference call

Briefings

① would he like it on his desk at start of each day.?

2 Times Per Week → [illegible]/Thu. T, TH.

START TIME ?

15-20 MINUTES.

② Women in Govt. Relations - Jobs.

Peggy R.
unavailable
on Tues. Morning
(Testimony).

Peter Knight

Wanted to express his
- Concern that it not be used
to ~~dis~~ show that it was a briefing
on Madison

Peter wants to be sure that this meeting is not
characterized as a briefing on Madison.

- "Her memo accurately reflects my
conversation with her."
- According to Jack and Peter.

[illegible] was there anything you needed to add to
this to make it complete.

Talking points for Roger Altman: informational meeting with Mack McLarty 2/2/94

o RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

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o If it is decided that any claim does exist, the RTC will have to determine which of the three alternatives to choose.

o The work is being supervised by Ellen Kulka, the new General Counsel, and by Jack Ryan, the new interim Deputy C.E.O.

o It is not certain when the analysis will be completed, but it will be before February 28.

o I have decided that I will recuse myself from the decision making process, as interim C.E.O. of the RTC, because of my relationship with the President and Mrs. Clinton.

Subsequent to
Revision of
February 2nd, '94
Hal [illegible]

Outline of RTC/Madison Guaranty Issues:

o RTC has been requested by eight Republican Senators and Congressmen, including Dole and Michel, to seek tolling agreements from President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm, relating to Madison Guaranty.

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House of Representatives
Washington, DC 20515

March 7, 1994

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Washington, D.C. 20220

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United State Senator

Sam Johnson
SAM JOHNSON
Member of Congress

Bill McCollum
BILL MCCOLLUM
Member of Congress

94-131497

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

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Independent Counsel
Suite 490 N
1001 Pennsylvania Avenue, NW.
Washington, DC 20004

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Jane S. Ley

Jane S. Ley
Deputy General Counsel

Enclosures

cc: ✓The Honorable Lloyd Bentsen
Secretary of the Treasury

The Honorable James Leach
U.S. House of Representatives

2/1/94

1. **Issue:**

   - Limited window to bring any claims relating to Madison Guaranty. The window expires February 28, 1994.
   - The only claims that could exist are those relating to fraud or intentional misconduct.
   - RTC has been asked to seek voluntary "tolling" agreements with President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward and the Rose law firm.
   - In the absence of a tolling agreement or litigation on the claim, existing claims will expire February 28.

2. Procedure and timing -- Leach document production and RTC review; relationship to Fiske review
3. Relationship to Oversight Board testimony -- timing of hearing
4. Oversight Board open meeting - 2/7/94
5. Response to D'Amato letter.

Madison Guaranty.

INTENTIONALLY DEFRAUDED A BANK

OR

Civil Complaint.

2/25

Must file a claim for extension, or negotiate a tolling agreement with all relevant parties prior to the expiration of 2/28 deadline for Statute of limitations.

Assumption:
Won't ask for a tolling agreement unless the facts substantiate any claim in and of themselves.

Could wind up in a situation where you just don't know.

Length of Tolling Agreement is usually finite → How long in case of President.

Not normally a case for the CEO.

MADISON/WHITEWATER: CONGRESSIONAL REQUEST FOR DOCUMENTS

Question:

Does Treasury have any documents relating to Vince Foster's death?

Answer:

- We recently received a Congressional request for such documents. Our search to date has identified several Bureau of Alcohol, Tobacco and Firearms and Secret Service documents.

Question:

What is the Department doing in response to that Congressional request?

Answer:

- We continue to search our files for responsive material. In addition, as you are aware, the jurisdiction of Special Counsel Robert A. Fiske includes looking into the investigation of Mr. Foster's death. Accordingly, we have referred to the Special Counsel the documents that we have located and have asked his views on whether they can be released.

Question:

Why do those bureaus have documents related to the investigation of Mr. Foster's death?

Answer:

- ATF was asked by the Park Police to do laboratory analysis of physical evidence the Park Police had collected in their investigation of Mr. Foster's death. Secret Service generated documents in connection with their responsibility for physical security at the White House, including Mr. Foster's office.

Question:

Why don't you release them?

Answer:

- We have an obligation not to jeopardize an on-going investigation. Although we believe that, at least a portion of them will not be relevant to the investigation, Mr. Fiske is conducting the investigation and it is his decision what documents can be released. We hope that he will give a prompt reply to our request that he make conclusions about these documents.

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13a (con't.)

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for
diary

MADISON GUARANTY 2/1/94

1. do any the claims exist, and do they fall into the category of fraud or intentional misconduct?
   if they don't, it would be legally irresponsible ~~to~~ to pursue a tolling agreement

2. must file a claim in court by Feb. 28 to preserve the ability to pursue the claim

3. the ~~only~~ reason [redacted] people agree to tolling agreements is that the subsequent discovery process would later avert any court filing and the related expense of defending against the suit

4. General Counsel will decide, working with PLS, whether the basis exists for a court-filed claim

5. tolling agreement means that the statute of limitations will be waived for a specific period of time

6. the Special Counsel cannot make this part of his investigation because the latter is a criminal investigation pursued by a separate agency

MADISON

Civil

- only criteria are fraud or intentional misconduct which led to [redacted] [redacted] unjust enrichment or substantial loss to the institution

- must prove damage to the institution

- must assert a claim which can survive a motion to dismiss; which is not frivolous

RECEIVED
JUN 3
LEGAL DIV

copy both sides

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

MEMORANDUM TO:	Kelly Cordes Clerk United States Senate
FROM:	Peter E. Knight Director of Governmental Relations
DATE:	July 11, 1994
SUBJECT:	Inquiry Concerning Policies on Communications with Other Agencies

Pursuant to your request dated June 29, 1994, attached please find an inventory listing those policies we have identified as responsive to your request for the RTC's written policies concerning communications with other agencies and copies of the policies themselves. In addition, if we uncover any other policies or former policies that are responsive to your request, we will, of course, forward copies to you. If you have any questions regarding these policies or require further information, please contact me at (202) 416-2116.

Attachments

801 17th Street, N.W. Washington, D.C. 20434

Inventory

1. **Interagency Agreement with the Department of Labor Regarding ERISA**
   Signed by: Albert V. Casey
   Dated: November 24, 1992

2. **Criminal Referrals**
   Signed by: James R. Dudine, Thomas L. Hindes, James M. Barker, and Jerry Patchan
   Dated: June 17, 1993

3. **IRS-RTC Interagency Agreement**
   Signed by: T. Michael Thompson
   Dated: December 11, 1992

4. **Senior Interagency Group Policy Statement Regarding National Policy on Collection and Reporting Procedures for Restitution Payable to Financial Institutions Regulatory Agencies**
   Dated: April 25, 1992

5. **Policy and Procedures for Responding to Requests from the Thrift Depositor Protection Oversight Board**
   Dated: May 12, 1994

6. **Statement of Policy and Procedures Concerning The Sharing Of Confidential Information with the Office of Thrift Supervision: Agreement Regarding Confidential Information**
   Effective Date: April 29, 1991

7. **Agreement Regarding Confidential Information with the Office of the Comptroller of the Currency**
   Signed by: Richard T. Aboussie and Robert B. Serino
   Dated: January 27, 1993

8. **Statement of Policy and Procedures Concerning the Sharing of Confidential Information Between the FDIC and the RTC: Agreement Regarding Confidential Information**
   Effective Date: January 1, 1992

9. **Procedures for Congressional and White House Correspondence and Telephone Inquiries (Circular 1211.3)**
   Signed by: Dennis F. Geer
   Dated February 1, 1994

10. **The Privacy Act of 1974: Rights and Responsibilities (Circular 1031.1)**
    Signed by: Dennis F. Geer
    Dated: August 13, 1993

11. **12 U.S.C. § 1821(t) providing generally that the RTC and other agencies may share information without waiving privilege.**

12. **Procedures for Processing Freedom of Information Act and Privacy Act Requests (Circular 1023.1)**
    Signed by: Dennis F. Geer
    Dated: August 11, 1993

13. **Part 1616-Privacy Act Regulations**

Document 1

U.S. Department of Labor

Pension and Welfare Benefits Administration
Washington D.C. 20210

NOV 24 1992

Mr. Albert V. Casey
President and Chief
Executive Officer
Resolution Trust Corporation
801 17th Street
Washington, D.C. 20434-0001

Dear Mr. Casey:

Enclosed is a copy of the DOL/RTC Interagency Agreement executed by you and Assistant Secretary Ball, concerning written notification of potential violations of ERISA.

We in PWBA look forward to a close and continuing working relationship with the RTC. In this regard, I would appreciate having future RTC referrals forwarded to my attention at the following address:

Charles Lerner
Director of Enforcement
Pension and Welfare Benefits Administration
U.S. Department of Labor
200 Constitution Avenue, N.W., Room N5702
Washington, D. C. 20210

In addition, should RTC staff have general questions on ERISA or wish to discuss any potential or actual referral to or from this office, they may contact Investigator James Denman of my staff at telephone number (202) 219-8845.

Thank you for your assistance in this matter.

Sincerely,

Charles Lerner

Charles Lerner
Director of Enforcement

Enclosure

cc: Edward F. Gerber
Chief, Priority Projects Section
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20006

INTERAGENCY AGREEMENT

Procedures for Cooperation between the Resolution Trust Corporation and the Department of Labor in the Enforcement of the Employee Retirement Income Security Act of 1974

The Resolution Trust Corporation, in the course of fulfilling its responsibilities under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (PL 101-73), performs functions which occasionally disclose violations of the Employee Retirement Income Security Act of 1974 (ERISA). The Department of Labor (DOL) is charged with the administration, interpretation and enforcement of standards of conduct and responsibility of fiduciaries of employee benefit plans under ERISA.

Section 3004(b) of ERISA provides that the Secretary of Labor may utilize the facilities or services of any department, agency, or establishment of the United States, with the lawful consent of such department, agency, or establishment; and each department, agency or establishment of the United States is authorized and directed to cooperate with the Secretary of Labor and, to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under ERISA. This agreement is executed pursuant to that authority.

1. To the maximum extent consistent with law and dependent upon the availability of resources, the Resolution Trust Corporation shall provide written notification to the DOL of possible violations of ERISA of a significant nature, which are discovered in the course of carrying out its responsibilities with respect to institutions subject to its jurisdiction.

2. A possible violation shall be considered significant when, in the view of the Resolution Trust Corporation, it falls within the following circumstances:

    a. Where the financial institution does not serve as plan administrator or plan sponsor, as those terms are defined in ERISA Section 3(16), possible violations of:

        (1) Title I, Part 4, Section 404, relating to fiduciary duties (including transactions directed by named fiduciaries or qualified investment managers), except where the transaction amounts, individually or in combination with other questionable transactions, constitute less than $100,000;

        (2) Title I, Part 4, Sections 406 and 407(a), relating to prohibited transactions, except where the threat of loss to the plan participants is _de minimis_;

        (3) Title I, Part 4, Section 411, relating to prohibition against certain persons holding certain positions;

        (4) Title I, Part 4, Section 412, relating to the bonding requirements as applicable to the financial institution itself.

b. Where the financial institution, in respect to a plan, also serves as plan administrator or plan sponsor, the Resolution Trust Corporation shall provide written notification of possible violations of the ERISA sections enumerated in a. above and, in addition, shall provide written notification of possible violations of Title I, Part 1 of ERISA relating to reporting and disclosure.

3. The written notification to the DOL shall include the following:

   a. The name of the financial institution.

   b. The name of the plan.

   c. A brief description of the nature of the possible violation, and any corrective action requested by the Resolution Trust Corporation and/or initiated by the Resolution Trust Corporation.

4. The DOL agrees that any information received from the Resolution Trust Corporation pursuant to this agreement shall, to the extent permissible by law, be held in strict confidence and may be used for enforcement purposes only; and that no other use of such information shall be made without the express written authorization of the agency that supplied such information.

5. The written notification shall be sent to the Director of Enforcement, the Pension and Welfare Benefits Administration, 200 Constitution Avenue, N.W., Room N5702, U.S. Department of Labor, Washington, D. C. 20210.

For the Resolution Trust Corporation:

Date: OCT 19 1992

Albert V. Casey, President and Chief
Executive Officer
Resolution Trust Corporation

For the U.S. Department of Labor:

Date: OCT 28 1992

David George Ball

David George Ball
Assistant Secretary
Pension and Welfare Benefits Administration

Document 2

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

June 17, 1993

MEMORANDUM TO: All RTC Investigations Department Heads (Field Sites)
All Investigations Staff (Washington)
All Assistant General Counsel (Field Sites)
All Litigation, Professional Liability, and Complex Litigation Section Chiefs (Field Sites)
All Litigation, Professional Liability, and Complex Litigation Attorneys (Washington)

FROM: James R. Dudine
Director
Office of Investigations

Thomas L. Hindes
Assistant General Counsel
Professional Liability Section

James M. Barker
Assistant General Counsel
Litigation Section

Jerry Patchan
Assistant General Counsel
Complex Litigation Section

SUBJECT: Criminal Referrals

1. Purpose: To consolidate instructions and guidance on making criminal referrals to the U. S. Department of Justice and other agencies.

801 17th Street, N.W. Washington, D.C. 20434

2. Policy: Whenever an investigator, attorney, or contractor for RTC discovers "suspected criminal activity," that person shall prepare a criminal referral, using the standard Interagency Criminal Referral Form, in accordance with filing instructions and the following guidelines. For purposes of making a referral, "suspected criminal activity" means that there is a reasonable basis to believe that a crime has or may have been committed, i.e., there's evidence of wrongdoing or a factual basis for the belief (not merely a suspicion). Except in rare circumstances, criminal referrals shall be reviewed by RTC Investigations and Legal Division Criminal Coordinators ("RTC Criminal Coordinators") before they are delivered to the U.S. Attorney and the FBI or other investigative agency. RTC Criminal Coordinators shall make certain that all required information and support documents are provided.

3. Handling of Criminal Referrals: All referrals are sensitive and must be handled with appropriate confidentiality and care. Most RTC criminal referrals are made to the U.S. Department of Justice (including the U.S. Attorney's Office and the FBI). In such cases, each referral should be accompanied by a cover letter signed by a supervisory official; this may be a Section Chief, Department Head, or, in appropriate cases, the Criminal Coordinator. When the criminal referral includes records or information derived from the records of a customer who is an individual or a partnership consisting of five or fewer individuals, the signing official must make the following certification in the cover

letter, as required by the Right to Financial Privacy Act, 12 U.S.C. § 3412(f):

> The information pertaining to this matter may have been derived from the financial records of customers of federally insured financial institutions. I hereby certify that (A) there is reason to believe that these records may be relevant to a violation of a federal criminal law, and (B) the records were obtained in the exercise of RTC's supervisory or regulatory functions.

Referrals for money laundering and other financial crimes may also be made in this manner to components of the Treasury Department (e.g., the Secret Service). In cases of referrals to other federal agencies, the Legal Division Criminal Coordinator should be consulted to ensure compliance with the other requirements of the Right to Financial Privacy Act.

Copies of significant criminal referrals should also be sent to the Office of Investigations, Washington, D.C. Significant referrals are those which qualify to become "major" cases under DOJ guidelines: (1) Loss due to apparent criminal conduct is $100,000 or more; (2) The apparent criminal conduct involves a director, officer, professional (e.g., attorney or accountant), or shareholder of the institution; or (3) Other compelling reasons (e.g., the apparent misconduct is part of a pattern or practice involving other financial institutions or the scheme or suspects pose a threat to operating financial institutions). As with all other criminal referrals, official file copies must be retained in the field office.

4. Coordination with Other Agencies: In accordance with a recent agreement, RTC-generated criminal referrals will be forwarded to the Department of the Treasury's FinCEN office, to be included in a national database of referrals submitted from financial institution regulators, banks, credit unions and savings associations. Refer to the filing instructions contained on page 3 of the Interagency Criminal Referral Form.

5. Compliance with Senior Interagency Group Policy Statement Regarding National Policy on Collection and Reporting Procedures for Restitution Payable to Financial Institution Regulatory Agencies ("SIG Policy Statement"): RTC Criminal Coordinators shall be responsible for contact with other agencies to insure compliance with the SIG policy statement adopted June 25, 1992. It is essential that all communication with the appropriate investigative agency and/or the USAO or DOJ trial attorney be coordinated in advance between the Legal and Investigations Criminal Coordinators. The line of communication should remain open from the time the referral is made through final disposition, including collection of any amounts due under a criminal restitution order.

6. Record Keeping: It is very important that all criminal referrals and the subsequent case and sentencing status be entered into the Thrift Investigations Management System (TIMS). Referrals which were filed by an RTC institution before it failed or by a regulatory agency (OTS or FDIC) which name specific individual(s); and for which the statute of limitations has not expired or for which a criminal case has been initiated (via indictment or information filing) must be entered into TIMS as well. Do not enter inherited referrals which do not name the suspect (e.g. naming "unknown," or "unidentified employees").

A file must be maintained in the field office by the designated Investigations Criminal Coordinator for each referral with supporting documentation and subsequent correspondence. These records are highly confidential and should be treated accordingly (e.g., kept in secured/locked cabinet).

The completed referral form and some related records are subject to the applicable provisions of the Privacy Act of 1974, 5 U.S.C. § 552a, and may not be disclosed to the public in response to a request under the Freedom of Information Act, 5 U.S.C. § 552, or as part of a litigation discovery process. Any requests for referral information from non-regulators or non-RTC investigative or legal staff should be promptly referred or forwarded to the field office Legal Division Criminal Coordinator and the attorney(s) with litigating responsibility (Litigation, PLS, and/or Complex Litigation) for the institution. Outside counsel and investigative contractors may have access to these records under the close supervision of the attorney with litigating responsibility for the matter or Investigations, as appropriate. Outside contractors should be advised of the sensitivity of case materials and that disclosures are prohibited.

7. Attachments and References: This directive replaces all others previously issued on this subject. A sample Interagency Criminal Referral Form and SIG Policy Statement are attached. Please review the Investigations Section of the Conservators' Operating Manual and Directive 91-097 issued by OIG. Most of the relevant federal bank fraud statutes are contained in Title 18, U. S. Code.

Attachments

INTERAGENCY CRIMINAL REFERRAL FORM INSTRUCTIONS

Paperwork Reduction Act Notice: The purpose of this form is to provide an effective and consistent means for financial institutions to notify appropriate law enforcement agencies of known or suspected criminal activities that took advantage of or were perpetrated against financial institutions. This report is required by law. Information collected on the form is confidential (5 U.S.C. 552(b)(7) and 552a(k)(2)). The federal financial institutions regulatory agencies and the U.S. Department of the Treasury may use and share the information. Public reporting burden for this information collection is estimated to average one half hour per response, including time to gather and maintain data in the required form and to review the instructions and complete the information collection. Send comments regarding this burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503 and, depending on your primary federal regulatory agency, to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; or Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429; or Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219; or Office of Thrift Supervision, Enforcement Office, Washington, DC 20552; or National Credit Union Administration, 1776 G Street, NW, Washington DC 20456.

Federal law (31 U.S.C. 5314(g)(3)) provides that financial institutions, and their directors, officers, employees and agents, that disclose, in good faith, possible violations of law in connection with the preparation of criminal referral forms "shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure." This law also requires that financial institutions, and their directors, officers, employees and agents, refrain from communicating that a criminal referral has been made and the information reported in a criminal referral to any person involved in the suspicious transaction.

WHEN TO FILE THIS FORM:

1. **All financial institutions operating in the United States, including insured banks, savings and loan associations, and credit unions, and bank holding companies, nonbank subsidiaries of bank and thrift holding companies, savings and loan service corporations, Edge and Agreement corporations, and United States branches and agencies of foreign banks, are required to report the detection of a loss or a suspected violation of law following the discovery of:**

   a. **Suspected insider abuse involving any amount. Any known or suspected criminal violation, or pattern of criminal violations, committed against the financial institution or involving a transaction conducted through the financial institution, where the financial institution has a substantial basis for identifying one of its directors, officers, employees, agents, or other institution-affiliated parties (as defined in 12 U.S.C. 1786(r), 1813(u) and 1818(b)(3) and (4)) as having committed or aided in the commission of a criminal act.**

   b. **Aggregate loss of $1,000 or more where a suspect can be identified. Any known or suspected criminal violation, or pattern of criminal violations, committed against the financial institution or involving a transaction conducted through the financial institution and involving or aggregating $1,000 or more in funds or other assets, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, the financial institution has a substantial basis for identifying a possible suspect or group of suspects and that the suspect(s) is not a director, officer, employee, agent, or other institution-affiliated party.**

   c. **Aggregate loss of $5,000 or more regardless of potential suspects. Any known or suspected criminal violation, or pattern of criminal violations, committed against the financial institution or involving a transaction conducted through the financial institution and involving or aggregating $5,000 or more in funds or other assets, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.**

d. **Money laundering or violations of the Bank Secrecy Act.** Any financial transaction conducted, or attempted, at the financial institution involving funds derived from illicit activity or for the purpose of hiding or disguising funds from illicit activities, or for the possible violation or evasion of the Bank Secrecy Act reporting and/or recordkeeping requirements, even though there is no substantial basis for identifying a possible suspect or group of suspects. A form must be filed for all instances where money laundering is suspected, regardless of the identification of a potential suspect or the amount involved in the violation.

2. Financial institutions are required to file this form no later than 30 calendar days after the date of initial detection of the known or suspected criminal violations or series of criminal violations. If no suspect has been identified within 30 days after the date of the detection of the loss or the known, or suspected criminal violation or series of criminal violations, reporting may be delayed an additional 30 calendar days or until a suspect has been identified, whichever is sooner. However, in no case shall reporting of suspected violations be delayed more than 60 calendar days after the date of the loss or the known or suspected criminal violation or series of criminal violations. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, the appropriate law enforcement authority in addition to filing a timely criminal referral form.

3. This form does not need to be filed for those robberies and burglaries that are reported to local authorities, or for lost, missing, counterfeit or stolen securities that are reported pursuant to the requirements of 17 CFR 240.17f-1.

HOW TO COMPLETE THIS FORM:

1. **This form must be typewritten.** Use a standard commercial font and pitch (no italics or script).

2. **Do not fold or staple the original of this form.** Use a 9" x 12" or larger envelope when mailing the **original** form to the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"). All other forms required for distribution may be copied or folded.

3. Type on the original of the form. Do not use a photocopy or any other type of facsimile of the form for submission to FinCEN. Extra original pages for Suspect Information (Section-4) and Witness Information (Section-5) are provided for additional suspects and witnesses.

4. This form is machine readable. The form will be optically scanned, and the information on it will be stored in data fields that correspond to the line numbers which are generally located in the center of the page (e.g., <0101>). These line numbers tell the optical scanner where on the page to read the reported information. In two parts of the form only -- area <1701> on page 4 and area <2801> on page 9 -- information may be typed within a space larger than one line.

5. All information should be entered on the form in the space to the right of the arrow symbols. When indicating a choice among several options, use a capital "X". Use two-letter postal abbreviations with no punctuation when entering state names, such as "VA". Dollar amounts should be expressed in numerals only.

WHERE TO SEND A COMPLETED FORM:

1. For each completed form:

   a. Send the unfolded, unstapled **original form** and a **copy** of related supporting documentation to:
      FinCEN
      PO Box 8000
      Vienna, VA 22183-8000

   b. Send a copy of the completed form and a copy of related supporting documentation to:
      U.S. Attorney
      for the federal judicial district in which the alleged criminal act took place.

   c. Send a copy of the completed form and a copy of related supporting documentation to:
      FBI Regional Office
      for the region in which the alleged criminal act took place, **and**:

      (1) For known or suspected credit card fraud or computer fraud, send an additional copy to:
          U.S. Secret Service
          Financial Crimes Division
          1800 G Street, NW
          Room 942
          Washington, DC 20223

      (2) For known or suspected money laundering or a Bank Secrecy Act violation, send an additional copy to:
          Internal Revenue Service District Office
          for the region in which the alleged criminal act took place.

   d. All national banks regulated by the Office of the Comptroller of the Currency and all thrift associations regulated by the Office of Thrift Supervision must also send an additional copy of the completed form and related supporting documentation to the U.S. Secret Service at the address set forth in instruction 1c (1) above.

   e. Send a copy of the completed form and a copy of related supporting documentation to your primary federal regulatory agency at its District or Regional Office or Federal Reserve Bank. The appropriate address of the regulatory agency is on page 4 of these instructions.

2. Retain a copy of the form and all **original** documentation for 10 years from the date of the form.

3. If the form is prepared by an agency examiner, send the unfolded, unstapled original form with a copy of related supporting documentation to your supervisor. The supervisor will ensure that the completed form and supporting documentation are distributed in accordance with the directions set forth in instruction 1 above.

GENERAL INSTRUCTIONS:

1. **Section 1, lines 0101, 0102, and 0103.** Indicate whether this report is an initial, correction or supplemental submission. Each form must be completed in its entirety, even when the form is a correction or supplement. If a correction or supplement pertains to suspects, witnesses, and/or offers of assistance, complete (as appropriate) Sections 4, 5, and/or 6. Section 7 should be used to highlight the information that is being corrected and/or supplemented.

2. **Section 3, line 1111.** Briefly describe the suspected violation on this line, but limit your response to 23 characters. This line should be used only if the general categories for the type of suspected violation do not appear to apply to the offense being reported.

3. **Section 4, lines 1801, 1802, and 1803.** When entering a suspect name do not use titles or generational abbreviations such as Mr., Mrs., Ms., Dr., Jr., Sr., III, etc. If the suspect is a corporation or other entity, enter the name on line 1801.

4. **Section 4, lines 1814 and 1815.** Other identification types would include drivers licenses, passports, visas, and alien registration cards. Please specify issuing authority, as appropriate, and number, if any.

5. **Section 4, line 1912.** Briefly describe the relationship on this line, but limit your response to 34 characters. This line should be used only if the general categories of relationships do not appear to apply to the suspect.

SPECIFIC FEDERAL RESERVE SYSTEM INSTRUCTIONS:

1. **Section 1, line 0207.** Enter the number for the appropriate Federal Reserve District:

1	Boston	5	Richmond	9	Minneapolis
2	New York	6	Atlanta	10	Kansas City
3	Philadelphia	7	Chicago	11	Dallas
4	Cleveland	8	St. Louis	12	San Francisco

2. Federal Reserve Bank addresses:

Federal Reserve Bank of Boston
Attention: Criminal Referral
600 Atlantic Avenue
Boston, MA 02106

Federal Reserve Bank of New York
Attention: Criminal Referral
33 Liberty Street
New York, NY 10045

Federal Reserve Bank of Philadelphia
Attention: Criminal Referral
Ten Independence Mall
Philadelphia, PA 19106

Federal Reserve Bank of Cleveland
Attention: Criminal Referral
1455 East Sixth Street
Cleveland, OH 44114

Federal Reserve Bank of Richmond
Attention: Criminal Referral
701 East Byrd Street
Richmond, VA 23219

Federal Reserve Bank of Atlanta
Attention: Criminal Referral
104 Marietta Street, N.W.
Atlanta, GA 30303

Federal Reserve Bank of Chicago
Attention: Criminal Referral
230 South LaSalle Street
Chicago, IL 60604

Federal Reserve Bank of St. Louis
Attention: Criminal Referral
411 Locust Street
St. Louis, MO 63102

Federal Reserve Bank of Minneapolis
Attention: Criminal Referral
250 Marquette Avenue
Minneapolis, MN 55480

Federal Reserve Bank of Kansas City
Attention: Criminal Referral
925 Grand Avenue
Kansas City, MO 64198

Federal Reserve Bank of Dallas
Attention: Criminal Referral
2200 North Pearl Street
Dallas, TX 75201

Federal Reserve Bank of San Francisco
Attention: Criminal Referral
101 Market Street
San Francisco, CA 94105

OFFICE USE ONLY

<8101>

INTERAGENCY CRIMINAL REFERRAL FORM

MUST BE TYPEWRITTEN
DO NOT FOLD OR STAPLE THE ORIGINAL
DO NOT TYPE ON A PHOTOCOPY OF THE ORIGINAL

Place "X" next to ONE only.
Explain Correction/Supplemental
in Section 7.

Initial .... <0101>
Correction .... <0102>
Supplemental .... <0103>

SECTION - 1 DISTRIBUTION

Primary federal regulatory/source agency.
Place "X" next to ONE Only.

Board of Governors of the Federal Reserve System .... <0201>
Comptroller of the Currency .... <0202>
Office of Thrift Supervision .... <0203>
Federal Deposit Insurance Corporation .... <0204>
Resolution Trust Corporation .... <0205>
National Credit Union Administration .... <0206>

Region/District Code (see instructions) .... <0207>

Attorney in: City .... <0301>
State (2 character code) .... <0302>
Zip Code .... <0303>

Indicate all applicable recipients:

(as required)
Federal Bureau of Investigation in: City .... <0304>
State (2 character code) .... <0305>
Zip code .... <0306>

(as required)
U.S. Secret Service in: City .... <0307>
State (2 character code) .... <0308>
Zip code .... <0309>

(as required)
Internal Revenue Service in: City .... <0310>
State (2 character code) .... <0311>
Zip code .... <0312>

(as required)
Other federal, state or local agency (specify name) .... <0401>
City .... <0402>
State (2 character code) .... <0403>
Zip code .... <0404>

DO NOT WRITE ON THE BACK OF THIS FORM

FRB: Form 2230
OMB No. 7100-0212
Expires: June 30, 1994

NCUA: Form No. 2362
OMB No. 3133-0094
Expires: November 30, 1994

OTS: Form 366
OMB No. 1550-0003
Expires: June 30, 1994

OCC: Form No. CC-8010-09
OMB No. 1557-0180
Expires: June 30, 1994

FDIC Form No. 6710
OMB No. 3064-0077
Expires June 30 1994

<8102>

SECTION 2
INSTITUTION INFORMATION

Institution name <0601>

Address line 1 (where known or suspected acts took place) <0602>

Address line 2 <0603>

City <0604>

State (2 character code) <0605>

Zip code <0606>

FDIC Insurance Certificate Number <0607>

or,

Bank Holding Company Number <0608>

or,

State Member Bank Number <0609>

or,

OTS Docket Number <0610>

or,

OCC Charter Number <0611>

or,

RTC Financial Institution Number <0612>

or,

NCUA Charter/Insurance Number <0613>

Asset size of financial institution (example: $50,000,000) <0701> $

Institution closed, date closed (format: mm-d-yy) <0801>

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<8103>

SECTION - 3
SUSPECTED VIOLATION(S)

Date of suspected initial violation (format: mm-d-yy) .... <0901>

Dollar amount involved in suspected violations (example: $3,500,000) .... <1010>$

Summary characterization of suspected violation(s).
("X" all that are applicable.)

Defalcation/Embezzlement .... <1101>

False Statement .... <1102>

Check Kiting .... <1103>

Check Fraud .... <1104>

Credit Card Fraud .... <1105>

Bribery/Gratuity .... <1106>

Misuse of Position or Self-Dealing .... <1107>

Mysterious Disappearance .... <1108>

Bank Secrecy Act/Structuring/Money Laundering .... <1109>

Other (specify suspected violation type on line <1111>) .... <1110>

Specify other here .... <1111>

Amount of loss known prior to recovery (example: $3,500,000) .... <1201>$

Dollar amount of recovery (example: $3,500,000) .... <1301>$

Have the suspected violations had a material impact on or otherwise affected the financial soundness of the institution? ("X" if yes) .... <1401>

Has the institution's bonding company been notified? ("X" if yes) .... <1501>

Have any of the institution's accounts related to this matter been closed? ("X" if yes) .... <1601>

If line <1601> is YES, list the account number(s) and type(s), and the person(s) closing the account(s) in area <1701>.

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<8104>

SECTION - 3
SUSPECTED VIOLATION(S)
(CONTINUED)

Explanation/description of suspected violation(s). This section of the referral is critical. The care with which it is written may make the difference in whether or not the described conduct and its criminal nature are clearly understood. Provide a chronological and complete account of the suspected violation(s), including what is unusual or irregular about the transaction(s), using the checklist below as you prepare your account.

a. Relate key events to supporting documents and affected institution depository/loan accounts, and include copies of those supporting documents, retaining the originals.
b. Explain who benefited, financially or otherwise, from the transaction(s), how much and how.
c. Furnish any confession, admission, or explanation of the transaction(s) provided by the suspect(s) and indicate to whom and when it was given.
d. Furnish any confession, admission, or explanation of the transaction(s) provided by any other person(s) and indicate to whom and when it was given.
e. Furnish any evidence of cover-up or evidence of an attempt to deceive federal or state examiners or others.
f. Indicate where the suspected violation(s) took place (e.g. main office, branch, other).
g. Indicate whether the suspected violation(s) is an isolated incident or relates to other transaction(s).
h. Indicate whether any information has been excluded from this referral; if so, why.
i. Indicate whether there is any other related litigation; if so, specify.
Recommend any further investigation that might assist law enforcement authorities.

Enter explanation/description. If necessary, continue the narrative on plain white 8½" x 11" paper.
DO NOT WRITE ON THE BACK OF THIS FORM

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<8105>

SECTION - 4
SUSPECT INFORMATION

SUSPECT(S): Person(s) suspected of criminal violation(s).
Complete copies of these two pages for each suspect in this referral.
If the suspect in question is a corporation or other entity, enter the entity name on line < 1801 >.

Last name	<1801>
First name	<1802>
Middle initial	<1803>
Address line 1	<1804>
Address line 2	<1805>
City	<1806>
State (2 character code)	<1807>
Zip code	<1808>
Country	<1809>
Phone number-Residence (include area code)	<1810>
Phone number-Work (include Area code)	<1811>
Date of Birth (format: mm-dd-yy)	<1812>
Social Security Number	<1813>
Other Identification Type (e.g., driver's license)	<1814>
Other Identification Number	<1815>
Tax ID Number	<1816>

Relationship to financial institution. ("X" all that apply)

Officer	<1901>
Director	<1902>
Employee	<1903>
Borrower	<1904>
Shareholder	<1905>
Accountant	<1906>
Agent	<1907>
Attorney	<1908>
Appraiser	<1909>
Broker	<1910>
Other (specify on line <1912>)	<1911>
Specify other relationship here	<1912>

FOR ADDITIONAL SUSPECTS, include additional copies of pages 5 and 6 and place "X" here	<1913>

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DO NOT WRITE ON THE BACK OF THIS FORM

<8106>

SECTION - 4
SUSPECT INFORMATION
(CONTINUED)

Entity(ies) suspected of criminal violation(s). Provide requested information for each suspect in this referral.

Is person/entity still affiliated
with the financial institution? ("X" if yes) . . . . <2011>
If no, Suspended? . . . . <2012>
Terminated? . . . . <2013>
Resigned? . . . . <2014>
Date of suspension/termination/resignation . . . . <2015>
(format: mm-d-yy)

Provide the name(s) of up to three other financial
institution(s) with whom the suspect/entity is affiliated:
Institution name 1 . . . . <2101>
Institution name 2 . . . . <2102>
Institution name 3 . . . . <2103>

Provide the name(s) of up to three other business
enterprise(s) with which the suspect/entity is affiliated:
Enterprise name 1 . . . . <2201>
Enterprise name 2 . . . . <2202>
Enterprise name 3 . . . . <2203>

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<8107>

SECTION - 5
WITNESS INFORMATION

WITNESS(ES): Provide the following for any persons who might have information about the suspected violation(s).

Last name .... <2301>
First name .... <2302>
Middle initial .... <2303>
Address line 1 .... <2304>
Address line 2 .... <2305>
City .... <2306>
State (2 character code) .... <2307>
Zip code .... <2308>
Country .... <2309>
Date of Birth (format: mm-dd-yy) .... <2310>
Social Security Number .... <2311>
Title .... <2312>
Phone number (include area code) .... <2313>
Interviewed ("X" if yes) .... <2314>

Last name .... <2401>
First name .... <2402>
Middle initial .... <2403>
Address line 1 .... <2404>
Address line 2 .... <2405>
City .... <2406>
State (2 character code) .... <2407>
Zip code .... <2408>
Country .... <2409>
Date of Birth (format: mm-dd-yy) .... <2410>
Social Security Number .... <2411>
Title .... <2412>
Phone number (include area code) .... <2413>
Interviewed ("X" if yes) .... <2414>

FOR ADDITIONAL WITNESSES, include additional copies of this page and place "X" here .... <2415>

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<8109>

SECTION - 6
ASSISTANCE

Offer of assistance. Provide the following for individuals who are-will be authorized to discuss this refer with the Justice Department, Treasury Department, or the appropriate federal. state, or local agency and to assist in locating or explaining any documents pertinent to this referral.

Last name . . . . <2501>
First name . . . . <2502>
Middle initial . . . . <2503>
Employer . . . . <2504>
Phone number (include area code) . . . . <2505>

Last Name . . . . <2601>
First name . . . . <2602>
Middle initial . . . . <2603>
Employer . . . . <2604>
Phone number (include area code) . . . . <2605>

Provide information on person preparing this form:
Last name . . . . <2701>
First name . . . . <2702>
Middle initial . . . . <2703>
Title . . . . <2704>
Agency/Institution . . . . <2705>
Phone number (include area code) . . . . <2706>
Date (format: mm-dd-yy) . . . . <2707>

FOR ADDITIONAL OFFERS OF ASSISTANCE,
include additional copies of this page and
place an "X" here . . . . <2708>

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<8109>

SECTION - 7
MISCELLANEOUS INFORMATION

(This page is for supplementing or correcting an earlier submission.)

<2801>

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Document 3

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

December 11, 1992

MEMORANDUM TO: Office Vice Presidents

Vice Presidents
Field Operations and Accounting

FROM: T. Michael Thompson
Director and Field Financial Officer
Office of Field Accounting and Asset Operations

SUBJECT: IRS-RTC Interagency Agreement

Please find enclosed a copy of the Internal Revenue Service and Resolution Trust Corporation Inter-Agency Agreement which was executed on December 10, 1992. Procedures for implementation of this agreement are being developed and will be issued as soon as possible.

If there are specific tax problems that need to be addressed before procedures are issued, please call either Joan Spirtas at (703) 908-6441 or Jim Small at (703) 908-6461.

Thank you.

Attachment

cc: Mr. Roelle

1735 North Lynn Street Rosslyn, Virginia 22209

INTERNAL REVENUE SERVICE AND RESOLUTION TRUST CORPORATION INTER-AGENCY AGREEMENT

I. PREAMBLE

This Inter-Agency Agreement (Agreement) is entered into between the Internal Revenue Service (IRS) and the Resolution Trust Corporation (RTC) to facilitate the disposition of cases involving Thrifts Under RTC Jurisdiction in an orderly and cost efficient manner. This Agreement functions as a master agreement with respect to federal income tax matters between the IRS and the RTC that arise at all stages of case processing.

The parties acknowledge that this Agreement will cause them to resolve federal income tax matters different from the way they might be resolved absent this Agreement. The IRS and the RTC agree that it is in the best interest of the IRS, RTC, and the United States to resolve tax matters administratively between the IRS and the RTC in a manner that conserves government resources, carries out statutory responsibilities of the RTC, and promotes fair administration of the tax laws.

II. DEFINITIONS

The following definitions apply for purposes of this Agreement:

A. Thrift(s) Under RTC Jurisdiction. Any federal or state chartered savings institution for which the RTC has been appointed conservator or receiver. This definition is not limited to associations described in § 7701(a)(19) of the Internal Revenue Code of 1986 (IRC).

B. Consolidated Subsidiary. A member of an affiliated group of corporations, as defined in IRC § 1504(a)(1), for which a Thrift Under RTC Jurisdiction is the common parent and which files a consolidated return with such common parent.

C. Eligible Subsidiary. A subsidiary of a Thrift Under RTC Jurisdiction that files, or is required to file, a consolidated return with a common parent not under RTC jurisdiction, but only if 80% or more of the subsidiary is owned in the aggregate by the thrift and/or its 80% or more owned subsidiaries. For purposes of this Agreement, an entity owns 80% of a subsidiary if it owns 80% or more of the total voting power of the stock of the subsidiary and at least 80% of the total value of the stock of the subsidiary.

D. Treasury Funds. Funds appropriated by the United States Congress and funds obtained by the RTC from the Department of the Treasury and the Resolution Funding Corporation pursuant to 12 U.S.C. § 1441a(i) and 12 U.S.C. § 1441b. A Thrift Under RTC Jurisdiction is considered to use Treasury Funds whenever the RTC provides the certification specified in Section IV of this Agreement.

E. Federal Income Tax Liability(ies). The amount of income tax, interest, additions to tax, and penalties related to such taxes.

III. SCOPE OF AGREEMENT AND EFFECTIVE DATE

A. Entities Affected. 1. This Agreement applies to Thrifts Under RTC Jurisdiction, their Consolidated Subsidiaries, and their Eligible Subsidiaries, except that when a Thrift Under RTC Jurisdiction files, or is required to file, a consolidated return with a parent corporation not under RTC jurisdiction, Section V (Assessment) of this Agreement does not apply to such thrift and its Eligible Subsidiaries because the RTC cannot bind the consolidated group.

2. This agreement shall not apply to any thrift under a receivership created by resolution of the Federal Home Loan Bank Board, unless the thrift is placed under RTC jurisdiction following the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

B. Period of Applicability. This Agreement shall apply to a Thrift Under RTC Jurisdiction, and to any of its subsidiaries covered by this Agreement, while such entity is under RTC jurisdiction.

C. Tax Liabilities Affected. The federal tax liabilities to which this Agreement applies are Federal Income Tax Liabilities, and excise tax liabilities to the extent described in Section VIII, of:

1. a Thrift Under RTC Jurisdiction and its Consolidated Subsidiaries if such tax liabilities arise prior to or during the period of RTC jurisdiction; and
2. any Eligible Subsidiary for the period in which it joins in the filing of a

consolidated return with the Thrift Under RTC Jurisdiction if such tax liabilities arise prior to or during the period of RTC jurisdiction.

D. Criminal Cases. This Agreement is not intended to limit in any way the IRS's right or ability to initiate and recommend prosecution of criminal cases involving individuals and financial institutions.

E. Effective Date. This Agreement is effective upon execution by the IRS and the RTC and applies to all Thrifts under RTC Jurisdiction on this date and to all thrifts that are placed under RTC jurisdiction in the future. The preceding sentence also applies to Consolidated Subsidiaries and Eligible Subsidiaries.

IV. RTC CERTIFICATION OF TREASURY FUNDS USAGE

The RTC will provide prompt written certification for each taxable year for each Thrift Under RTC Jurisdiction that meets the certification criteria. The certification shall state that (1) the assets of such thrift are insufficient to satisfy the claims of the thrift's depositors (or the RTC as successor for depositors' claims); (2) if the IRS were to collect taxes before all depositors (or the RTC as successor for depositors' claims) were paid in full, additional Treasury Funds would be used to satisfy deposit claims; and (3) the Federal Income Tax Liability will not be borne by the Thrift Under RTC Jurisdiction on account of a tax sharing arrangement. Certification will be made by the RTC's National Office and will be provided to the IRS in accordance with IRS written guidance. To ensure uniform treatment of the tax liabilities of Thrifts Under RTC Jurisdiction, the parties intend that the RTC will provide certification for each thrift that meets the certification criteria.

V. ASSESSMENT

The IRS will assess tax, interest, additions to tax, and penalties related thereto against Thrifts Under RTC Jurisdiction and Consolidated Subsidiaries. The assessed amount, which includes Federal Income Tax Liabilities, will be based upon all available information including all appropriate adjustments and offsets concerning each Thrift Under RTC Jurisdiction and any Consolidated Subsidiaries. After consultation between IRS and RTC, the tax thus determined will reflect the best efforts of the IRS and the RTC to ensure that it is the proper amount of tax due.

For cases in which the RTC provides the certification specified in Section IV of this Agreement, the RTC will agree to the Federal Income Tax Liabilities of the Thrift and its Consolidated Subsidiaries. The amount of the income tax assessment will be agreed upon by the IRS and the RTC at the examination level. For those cases which are beyond the IRS examination level at the time this Agreement is executed or when the thrift is placed under RTC jurisdiction, the IRS and the RTC will determine expeditiously the proper Federal Income Tax Liability at that level. If agreement at the IRS level where the case is pending is not possible, the RTC National Office will present the case to the IRS National Office for a final determination by the IRS. It is anticipated that this National Office procedure will function primarily to resolve questions of tax policy and to ensure consistent treatment of tax issues. The RTC will not challenge, in any forum, the amount finally determined by the IRS.

Each assessment will be memorialized in a written agreement indicating the amounts of Federal Income Tax Liabilities due. The written agreement will contain a waiver with respect to refunds in accordance with Section VII of this Agreement. Each agreement will be specific in its findings and will not be made public by either party except as required by IRS information sharing agreements with the various states, or other provisions of law. Both parties intend that in accordance with the principles of IRC §§ 6110 and 7121, these agreements are not precedent for any other taxpayer.

VI. COLLECTION

A. Non-Collection by IRS. 1. Although the IRS will assess all federal tax liabilities of a Thrift Under RTC Jurisdiction and its Consolidated Subsidiaries, it will not collect income tax, interest, additions to tax, and penalties related thereto (defined as Federal Income Tax Liabilities in this Agreement) whenever the RTC provides the certification specified in Section IV. This non-collection provision also applies to the several liability of a Thrift Under RTC Jurisdiction and its Eligible Subsidiaries when the common parent of a group filing consolidated returns is not under RTC jurisdiction.

2. This non-collection provision applies to levies and notices of lien whenever the RTC provides the certification specified in Section IV. The IRS should not file notices of federal tax lien or use its levy authority for any tax liabilities of a Thrift Under RTC Jurisdiction and any of its subsidiaries covered by this Agreement during the period of RTC jurisdiction. If a notice of lien is filed, an appropriate recordable document to withdraw the notice of lien will be filed with the same office where the original notice was filed. Any

levy made contrary to this non-collection provision shall be released promptly.

B. Exceptions to Non-Collection. 1. The non-collection provision does not apply to the following: (a) taxes other than income taxes (e.g., social security, unemployment, and withholding taxes); (b) excise taxes, except to the extent specifically provided in Section VIII; (c) refunds made to the RTC that later are recouped by the IRS pursuant to the provisions of the Agreement By and Between the Resolution Trust Corporation and the Internal Revenue Service, dated September 27, 1991, concerning IRC § 6402(i); and (d) cases in which the certification required by this Agreement is erroneous.

2. The non-collection provision shall not apply to the separate liability of a subsidiary of a Thrift Under RTC Jurisdiction for any period for which the subsidiary was not a Consolidated Subsidiary or an Eligible Subsidiary.

VII. REFUND CLAIMS AND REFUND SUITS

When the RTC certifies to the information required in Section IV of this Agreement, the Thrift Under RTC Jurisdiction will not file claims for refund and will not pursue refunds on behalf of such thrift or any of its subsidiaries in any forum, except as contemplated by § 6402(i). The RTC will seek dismissal with prejudice of any refund litigation. Except as contemplated under the § 6402(i), the IRS will not pay refunds to or on behalf of a Thrift Under RTC Jurisdiction. These limitations on claims for refund will not apply if the certification pursuant to Section IV is erroneous.

VIII. EXCISE TAXES

A. Transfers of REMIC Residual Interests to RTC Corporate. 1. If a Thrift Under RTC Jurisdiction transfers a residual interest in a Real Estate Mortgage Investment Conduit (REMIC) to the RTC in its corporate capacity, the tax imposed by IRC § 860E(e) upon a transfer to a disqualified organization will be due but collection will be deferred in accordance with the limitations set forth in this Section. In addition, the transfer of the residual interest to the RTC will not cause the REMIC to fail to satisfy the definition of a REMIC under IRC § 860D(a).

2. To qualify for the deferral of the collection of tax due under IRC § 860E(e), the RTC in its corporate capacity must agree in writing, under procedures established by the IRS, to the following:

a. to accept transferee liability for the tax imposed by IRC § 860E(e);

b. to extend the statute of limitations on transferee liability for assessment and collection of tax until 180 days after written notice is provided by the RTC to the IRS that this deferral terminates in accordance with the terms of this Section.

3. The deferral terminates if:

a. the RTC transfers the REMIC interest to its successor unless the RTC provides notice to the IRS that the deferral period continues and the RTC provides a written statement from its successor that such transferee assumes the deferred tax liability under the conditions imposed by this Section; or

b. the RTC or its successor transfers the REMIC interest to any other person; or

c. the RTC or its successor terminates in writing the extension of the statute of limitations for assessment and collection.

For purposes of this Section, the term "successor" means the federal agency or office that succeeds by operation of law to the rights and obligations of the RTC.

4. The amount due when the deferral terminates because of sections 3a. or 3c. will be the full tax imposed by IRC § 860E(e) as of the date the REMIC interest was transferred to the RTC and interest under IRC § 6601. The amount due when the deferral terminates because of subsection 3b. will be the lesser of (a) the tax imposed by IRC § 860E(e) as of the date the REMIC interest was transferred to the RTC and interest under IRC § 6601, or (b) the total amount for which the RTC transfers the residual interest. The amount due when the deferral terminates will be paid immediately by the RTC or its successor.

5. The IRS will not collect the tax computed under paragraph 4 of this Section if the REMIC residual interest is retained by the RTC or by a successor to which the deferral period applies, and the REMIC terminates before the deferral period terminates.

B. Other Excise Taxes. The provisions of this Agreement may be extended to other excise taxes. Therefore, the parties, to the extent that they later agree that this Agreement, including the non-collection provision, will apply to such other excise taxes, will execute written amendments to this Agreement, incorporating by reference the terms to be applied with respect to such other excise tax or taxes.

IX. SECTION 7507

A. RTC Agreement. In view of the non-collection provision contained in Section VI, IRC § 7507 will not be asserted or pursued by the RTC, except that the RTC may assert § 7507 as follows:

1. cases in which the IRS pursues litigation as described in Section XI; or
2. cases in which there are direct insurance payments to depositors in full satisfaction of their insured deposit claims. The RTC agrees, however, that it will not assert IRC § 7507 for any insured deposit transfer whenever this Agreement applies.

B. Prior Filings. Any Federal income tax return filed prior to the date of this Agreement asserting IRC § 7507 will be processed in accordance with the terms of this Agreement.

X. NOTICES AND PROOFS OF CLAIM

A. IRS as Claimant. Because the IRS is a creditor at least for federal employment taxes of each operating thrift at the time it is placed in receivership, the RTC intends to provide the IRS with a claimant's specific notice for every receivership. Written notice will be given to the Chief, Special Procedures function, for the IRS district in which the Thrift Under RTC Jurisdiction operated and will include the Taxpayer Identification Number (TIN), and such other information as mutually agreed upon.

B. Filing Claims. In general, the IRS will file proofs of claim using the IRS proof of claim form specifying tax, interest, additions to tax, and penalties. When appropriate, the period for consideration of the IRS proof of claim will be extended by written agreement between the IRS and the Thrift Under RTC Jurisdiction. If the IRS did not receive specific notice as stated above, upon discovery of that failure, the RTC will mail the required written notification to the IRS within 30 days. The IRS will then have 30 days to file its proof of claim to the extent permitted by 12 U.S.C. § 1821(d).

XI. CIVIL LITIGATION

A. In General. The RTC will not litigate federal income tax issues against the United States involving a Thrift Under RTC Jurisdiction or its Consolidated Subsidiaries in any court to the extent that the IRS would forego collection pursuant to this Agreement. If a thrift has filed a petition in the United States Tax Court at the time the thrift is placed under RTC jurisdiction, the IRS and the RTC will inform the Court of the thrift's change of status and request the Court to stay further proceedings to allow the parties time to resolve any pending issues in accordance with this Agreement.

B. Appellate Litigation. Notwithstanding the provisions of Subsection A, the IRS will not be barred by this Agreement from appellate litigation involving Federal Income Tax Liabilities if abandonment by the IRS of such litigation would result in adverse precedent to the IRS. Similarly, the RTC will not be barred by this Agreement from appellate litigation if abandonment by the RTC of such litigation would result in adverse precedent to the RTC on a non-tax issue relating to banking or receivership law. Neither the IRS nor the RTC is obligated by this Agreement to defend any appellate litigation.

C. Summonses. The IRS will not be barred by this Agreement from pursuing judicial enforcement of summonses relating to the operation of a Thrift Under RTC Jurisdiction.

XII. INTER-AGENCY COOPERATION

A. In General. The IRS and the RTC will cooperate with respect to the determination of proper tax liabilities and proofs of claim for a Thrift Under RTC Jurisdiction.

B. Conditional Commitment Discharges. In order to reduce administrative expenditures of the IRS and RTC, the IRS will not be joined in any judicial mortgage foreclosure action to remove a federal tax lien against property in which a Thrift Under RTC Jurisdiction has a secured interest. Instead, the IRS will accept the valuation of the property submitted by the RTC in an application for conditional discharge. The IRS will act on such applications within seven days.

C. Notice of Fiduciary Status, Form 56-F. The RTC will file IRS Form 56-F (Notice Concerning Fiduciary Relationship of Financial Institution) for all Thrifts Under RTC Jurisdiction. Filing of the Form 56-F will not substitute for the claimant's specific notice by the RTC described in Section X.

D. Information Exchanges. The RTC will voluntarily release information without a summons or other written documentation when permitted by law. The RTC will cooperate with the IRS to resolve promptly disputes concerning the application of the Right to Financial Privacy Act.

XIII. INTERPRETATION OF THE PROVISIONS OF THIS AGREEMENT

The parties will attempt in good faith to resolve promptly at the National Office levels of the RTC and the IRS any questions relating to the interpretation of the provisions of this Agreement.

XIV. GENERAL PROVISIONS

A. Amendments. This Agreement may be amended by an instrument in writing signed on behalf of each of the parties hereto or their successors.

B. Subsequent Legislation. In the event federal legislation that is inconsistent with the purpose or provisions of this Agreement is enacted after this Agreement becomes effective, the IRS and RTC will renegotiate the provisions of this Agreement to consider the effect of subsequent legislation.

C. Successors. To the extent permitted by law, all the terms and provisions of this Agreement shall be binding upon, and inure to the benefit of, the IRS and the RTC and its successors.

D. Sole Benefit. This Agreement and all of its provisions are for the sole benefit of the IRS, the RTC and any successor, and any Thrift Under RTC Jurisdiction. No third party may rely on the terms of this Agreement.

E. Governing Law. This Agreement is governed by, and construed in accordance with, the statutes of the United States.

F. Effect of Erroneous Certification. If this Agreement is inapplicable due to an erroneous certification under Section IV of this Agreement, or for any other reason, none of the provisions of this Agreement alter the tax rules that apply to Thrifts Under RTC Jurisdictions, their Consolidated Subsidiaries, and their Eligible Subsidiaries in the absence of this agreement.

G. Severability. The IRS and the RTC agree that the mutual promises contained in this Agreement are interdependent and indivisible. Specific terms of this Agreement cannot be severed from other provisions.

H. Return-Filing Responsibilities. Nothing in this Agreement is intended to relieve the RTC of its obligation, as a receiver or conservator, to file federal tax returns for any Thrift Under RTC Jurisdiction.

On behalf of the Internal Revenue Service and the Resolution Trust Corporation, we, the undersigned, do hereby agree to the foregoing provisions of this Agreement effective this 10 day of December, 1992.

Michael P. Dolan

Michael P. Dolan
Deputy Commissioner,
Internal Revenue Service

William H. Roelle
Senior Vice President and
Chief Financial Officer,
Resolution Trust Corporation

Document 4

SENIOR INTERAGENCY GROUP

POLICY STATEMENT

Regarding

NATIONAL POLICY ON COLLECTION AND REPORTING PROCEDURES FOR RESTITUTION PAYABLE TO FINANCIAL INSTITUTION REGULATORY AGENCIES

Adopted June 25, 1992

I. Agencies' Input Into Restitution-Setting Process

A. Initial Contact - Department of Justice

1. In major cases,[1] the Financial Institution Fraud Coordinator in each United States Attorney's Office ("USAO") or Department of Justice trial attorney and the appropriate investigative agency will contact the responsible regulatory agency upon the opening of a financial institution fraud ("FIF") matter, to establish a line of communication for the ongoing exchange of information as the matter progresses. The name and address of the contact point in the regulatory agency should be obtained and this information provided to the USAO Victim/Witness Unit for routine notifications. The names of the Assistant United States Attorney ("AUSA") or trial attorney and the investigative agent(s) handling the matter should be made available to the regulatory agency.

2. In appropriate cases, exchanges of information can be accomplished in local or regional bank fraud working group meetings.

B. Initial Contact - Regulatory Agencies

1. In major cases, each regulatory agency will follow up with the appropriate investigative agency and/or the USAO or trial attorney on criminal referrals it has made, and on other criminal referrals which it deems appropriate for follow up, to establish a line of communication for the ongoing exchange of information as the matter progresses. The names of the case agent and the AUSA or

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[1] Major cases: any cases (1) in which the possible dollar loss to the financial institution(s) is $100,000 or greater; (2) in which the defendant was an officer, director, attorney or owner (including shareholder) of the financial institution; (3) in which the scheme involved multiple borrowers in the same financial institution; or (4) that involved other factors that warrant "major" status.

trial attorney should be obtained to facilitate future communications. The name and address of the regulatory agency contact point should be made available to the investigative agency and the USAO or trial attorney to facilitate communications and routine notifications.

2. In appropriate cases, exchanges of information can be accomplished in local or regional bank fraud working group meetings.

C. Ongoing Contacts - Department of Justice

In major cases, the AUSA or trial attorney handling the FIF matter/case will contact the regulatory agency at the following stages of the prosecution:

1. Pre-Indictment. Regarding proposed charges and proposed pleas in light of Hughey v. United States, 110 S. Ct. 1979 (1990), and to obtain any information necessary to the investigation, such as amount of loss to the financial institution;

2. Post-Indictment. Regarding proposed pleas or assistance required for trial; and

3. Post-Trial. Regarding information needed for the sentencing hearing.

D. Ongoing Contacts - Regulatory Agencies

In major cases, the regulatory agency will contact the AUSA or trial attorney handling the matter/case at the following times:

1. When information becomes available related to the amount of loss to the institution, in accordance with procedures mutually agreed upon by the regulatory agency and the AUSA or trial attorney;

2. When information becomes available related to assets in the defendant's possession or available to the defendant, in accordance with procedures mutually agreed upon by the regulatory agency and the AUSA or trial attorney;

3. Reasonable notice prior to filing or settlement of civil monetary penalty actions that raise issues under United States v. Halper, 490 U.S. 435 (1989);

4. When assistance is needed to obtain grand jury information under 18 U.S.C. § 3322; and

5. When information is to be provided to, or when it is requested by, the United States Probation Office or the Court.

E. Ongoing Contacts - Joint Responsibilities

In major cases, when parallel proceedings, or global settlements of civil, administrative, or criminal proceedings are in process or anticipated, the concerned regulatory agency or agencies will provide notice to the Department of Justice regarding such proceedings or proposed settlements. The Department of Justice will provide similar notice to the concerned agency or agencies.

II. Collection On Restitution Orders

In cases in which the Court orders restitution payable to a bank regulatory agency in its corporate, conservatorship, or receivership capacity, as appropriate:

1. The Department of Justice will:

A. Forward a copy of the judgment and commitment order to that agency through the Victim-Witness Unit of the appropriate USAO;

B. Enforce collection of the monies ordered by working with that agency to (1) identify the assets of the defendant; (2) reduce the restitution order to civil judgment, when appropriate; and (3) initiate judicial or other proceedings.

C. Notify that agency, or cause it to be notified, (1) by the Bureau of Prisons concerning the completion of the prison term; and (2) by the Victim/Witness Unit of the USAO concerning the completion of the appeal or any other reason that may legally delay the enforceability of the restitution order.

2. The regulatory agency to which restitution is payable will:

A. Track receipt of payments of that restitution; and

B. Report such restitution receipts to the Department of Justice.

III. Collection Reporting Responsibilities

Responsibilities for the uniform reporting of collections by the regulatory agencies through the Department of Justice to Congress are as follows:

1. Regulatory agencies that are the named recipients of criminal restitution orders will coordinate with and will provide regularly to the Priority Programs Team ("PPT"), Executive Office for United States Attorneys, Department of Justice, information they possess regarding the collection and reporting of restitution payment information. This is anticipated to be a short-term effort to reconcile collection information.

2. Regulatory agencies also will provide regularly to the PPT information they possess on recoveries obtained through enforcement and liquidation activities, including civil litigation and administrative proceedings.

SENIOR INTERAGENCY GROUP

RECOMMENDATION ON COLLECTION REPORTING RESPONSIBILITIES

The financial institution regulatory agencies and the Department of Justice:

1. Recommend funding and implementation of the National Fine Center in the Administrative Office for United States Courts, to the extent necessary to provide complete information regarding payment of fines and restitution, including an audit trail of payments received and disbursements made for restitution. Because this reporting system is underway and partially funded, an additional system managed by the Department of Justice would be duplicative and thus is not recommended; and

2. Will continue to work with the Administrative Office for United States Courts and its United States Probation Division in developing a suitable restitution tracking mechanism.

Document 5

POLICY AND PROCEDURES FOR RESPONDING TO REQUESTS FROM THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

MAY 12, 1994

POLICY

The RTC, through an Oversight Board Liaison, will provide to the Thrift Depositor Protection Oversight Board (Oversight Board) information related to RTC decisions and other requests in a timely manner. In addition, RTC staff will meet with Oversight Board staff to discuss specific issues, as needed. The Vice Presidents will inform the Oversight Board staff of policy issues under development prior to being finalized when the Vice Presidents determine that such a briefing is warranted. To carry out these functions, RTC will follow the procedures below approved by the Deputy and Acting Chief Executive Officer.

PROCEDURES - INFORMATION REQUESTS

a. The Oversight Board will submit requests for information to the RTC Oversight Board Liaison.

b. The Oversight Board Liaison will forward the request to the appropriate RTC office within one day of receipt.

c. Upon receipt of the inquiry, the responsible office will assess the time required to assemble the necessary response based on the complexity of the matter(s) presented. The responsible office will make every effort to respond to the request promptly. The appropriate office will notify the Oversight Board Liaison of the anticipated time frame for a response. Thereafter, the Oversight Board Liaison will be notified if a proposed deadline cannot be met, the reason it cannot be met, and when the information will be available.

d. In the event there is a question regarding the request, the Oversight Board Liaison will bring the matter to the attention of the appropriate management official.

e. The Oversight Board Liaison will keep the Oversight Board staff informed as to the status of each request.

f. After the Oversight Board Liaison receives the requested information, it will be hand delivered to the Oversight Board within one business day. However, if time constraints require that the staff office submit materials directly to the Oversight Board, a copy of the material will be provided to the Oversight Board Liaison.

g. The Oversight Board Liaison will keep a current list of standard reports required by the Oversight Board and assure that the reports are delivered on time or, in the event of a delay, notify the appropriate parties of the delay and when the reports will be ready.

h. The Oversight Board Liaison will provide copies of policies, regulations, and individual cases having significant policy implications, immediately upon adoption by the Deputy and Acting Chief Executive Officer.

i. The Oversight Board Liaison will keep a record of all requests, including any requests denied.

j. The Oversight Board may submit requests concerning complex projects directly to the appropriate Washington Office Vice President, and provide a copy of the request to the Oversight Board Liaison.

k. If time constraints require that the responding office submit materials directly to the Oversight Board, a copy of the material will be provided to the Oversight Board Liaison.

PROCEDURES - MEETING REQUESTS

a. The Oversight Board will submit requests for meetings to the Oversight Board Liaison.

b. The Oversight Board Liaison will forward the request to the appropriate office and will coordinate the logistics of the meeting with the Oversight Board.

c. In the event there is a question regarding the meeting, the Oversight Board Liaison will bring the matter to the attention of the appropriate management official.

d. The Oversight Board Liaison will keep a record of all meeting requests.

e. The Oversight Board may submit requests for meetings concerning complex projects directly to the appropriate Washington Office Vice President, and provide a copy of the request to the Oversight Board Liaison. The actual meeting should still be coordinated through the Oversight Board Liaison.

POLICY AND PROCEDURES FOR RESPONDING TO REQUESTS
FROM THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD
MAY 12, 1994

f. At the conclusion of each meeting, the responsible RTC official may, where appropriate, complete a brief memo to file noting the matters discussed and provide a copy to the Oversight Board Liaison.

[redacted]

Document 6

FDIC
Federal Deposit Insurance Corporation
Washington D C 20429

Legal Division

POL 91-3

STATEMENT OF POLICY AND PROCEDURES CONCERNING THE SHARING OF CONFIDENTIAL INFORMATION WITH THE OFFICE OF THRIFT SUPERVISION

Agreement Regarding Confidential Information

This statement sets forth the Policy and Procedures to be followed by the Legal Division concerning sharing and access to confidential information between the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC) or the Resolution Trust Corporation (RTC).

Policy Objective. It is the Policy of the FDIC/RTC and OTS to cooperate fully with each other to accomplish our individual missions to investigate and bring related but separate claims involving activities of the same thrifts. Therefore, the agencies have adopted procedures to share investigatory information and legal analyses to achieve a more efficient and cost effective use of resources and a more effective pursuit of wrongdoing. These procedures preserve and retain, to the fullest extent permitted by law, any and all privileges, immunities and claims of confidentiality possessed by the agreeing agencies.

Procedures to be Followed. The procedures to be followed are set forth in the Agreement Regarding Confidential Information attached hereto.

Effective Date. This Statement of Policy and Procedures is effective as of April 29, 1991.

Attachment: Agreement Regarding Confidential Information

AGREEMENT REGARDING CONFIDENTIAL INFORMATION

This Agreement Regarding Confidential Information (the "Agreement"), dated as of April 29, 1991, is by and between the Federal Deposit Insurance Corporation, acting in its own behalf and as manager for the Resolution Trust Corporation ("FDIC/RTC"), and the Office of Thrift Supervision ("OTS").

WHEREAS, the FDIC/RTC is vested by law with responsibility for maximizing the return on assets of thrift institutions, including claims relating to the failure of such institutions;

WHEREAS, the OTS is vested by law with responsibility to investigate and prosecute claims relating to the activities of current and former officers, directors, attorneys, accountants, and institution-affiliated parties of thrift institutions;

WHEREAS, the FDIC/RTC and OTS possess and expect to obtain information and documents covered by the attorney-client, work-product, and deliberative process privileges, as well as other statutory and common law privileges and protection of confidentiality, including but not limited to information and documents which are confidential within the meaning of Federal Rule of Civil Procedure 26(b)(4) and/or 5 U.S.C. §§ 552(b)(5) and (b)(7) (collectively, "Confidential Information");

AGREEMENT REGARDING CONFIDENTIAL INFORMATION

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WHEREAS, the FDIC/RTC is vested by law with responsibility for maximizing the return on assets of thrift institutions, including claims relating to the failure of such institutions;

WHEREAS, the OTS is vested by law with responsibility to investigate and prosecute claims relating to the activities of current and former officers, directors, attorneys, accountants, and institution-affiliated parties of thrift institutions;

WHEREAS, the FDIC/RTC and OTS possess and expect to obtain information and documents covered by the attorney-client, work-product, and deliberative process privileges, as well as other statutory and common law privileges and protection of confidentiality, including but not limited to information and documents which are confidential within the meaning of Federal Rule of Civil Procedure 26(b)(4) and/or 5 U.S.C. §§ 552(b)(5) and (b)(7) (collectively, "Confidential Information");

WHEREAS, the OTS has requested and expects in the future to request access to documents and other information in the possession, custody or control of the FDIC/RTC, which may include Confidential Information, in order to conduct its investigations and otherwise fulfill its statutory obligations;

WHEREAS, the FDIC/RTC has requested and expects in the future to request access to documents and other information in the possession, custody or control of the OTS, which may include Confidential Information, in order to conduct its investigations and otherwise fulfill its statutory obligations;

WHEREAS, the FDIC/RTC and the OTS anticipate that civil litigation and administrative proceedings will be brought against current and former officers, directors, attorneys, accountants, other institution-affiliated parties of thrift institutions, and related parties on the same or similar issues, and the FDIC/RTC and the OTS therefore have a strong common interest in their attorneys and investigators sharing the fruits of their respective research, opinions, advice, investigations, analyses, mental impressions, and trial preparation;

WHEREAS, the FDIC/RTC and OTS are charged with responsibility for investigating and bringing related but separate claims involving activities of the same thrifts, and the FDIC/RTC and OTS therefore seek (a) to share investigatory information and legal analyses to achieve a more efficient and cost effective use of resources and a more effective pursuit of wrongdoing and (b) to avoid wasteful and inefficient duplication of cost and effort in furtherance of the public interest;

WHEREAS, the FDIC/RTC and OTS seek to preserve and retain, to the fullest extent permitted by law, any and all privileges, immunities and claims of confidentiality which each may possess as to any Confidential Information exchanged;

WHEREAS, the FDIC/RTC and OTS wish to establish a procedure pursuant to which Confidential Information may be exchanged in a manner that preserves all such privileges, immunities and claims of confidentiality to the fullest extent permitted by law;

WHEREAS, the public policy underlying the creation of the FDIC/RTC and OTS, their overlapping authority, the express congressional directives that the FDIC/RTC and OTS cooperate, the principles underlying the attorney-client, work-product, and deliberative process privileges, and the case law addressing the sharing of confidential information among parties with common interests support the expectation that the FDIC/RTC and OTS will not waive the attorney-client, work-product or any other privilege(s) and/or claims of confidentiality which may apply to information exchanged in accordance with this Agreement; and

WHEREAS, it is anticipated by the parties that materials to be exchanged under this Agreement shall include materials located or generated within many different jurisdictions and that this Agreement will foster the uniform and unequivocal protection of any privilege(s) or claim(s) of confidentiality which may apply to such materials.

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. Following execution of this Agreement, the FDIC/RTC and OTS shall provide to each other such information in their possession, custody or control as the other requests, including Confidential Information, for use in the discharge of the other's responsibilities. Such information shall be provided as promptly as feasible at times and places that are mutually agreeable.

2. Except as provided by statute and/or in the October 1989 Interagency Joint Agreement executed by Paul G. Fritts on behalf of the FDIC's Division of Supervision and

Darrell W. Dochow on behalf of OTS, Confidential Information shall be provided between the FDIC/RTC and OTS solely and exclusively pursuant to this Agreement and in accordance with the procedures set forth below. Confidential Information so provided shall be used only in a manner fully consistent with the preservation of its confidentiality and of all applicable privileges and immunities.

3. The FDIC/RTC and OTS shall promptly provide each other with all information in their possession, custody or control as requested in writing. Such requests shall specifically identify the institution(s), person(s) or firm(s) as to which the information is requested, the nature and status of the investigation or proceeding for which the information is sought, and the type of information requested. In making such requests, the FDIC/RTC and OTS shall provide each other with sufficient information to avoid imposing any undue burden upon the producing party and to permit the producing party to identify and produce the requested information in the most cost effective and expeditious manner.

4. A party transmitting written Confidential Information to the other shall designate such materials as "Confidential" and/or mark each such document or thing transmitted with a "Confidential" or "Privileged" stamp. The

failure to designate or so mark any document will not be deemed a waiver of any claim of privilege or right to confidentiality and each party will take all steps necessary to protect the confidentiality of Confidential Information which as a result of inadvertence does not bear a "Confidential" or "Privileged" stamp. Any disagreement as to categorization of documents as Confidential Information shall be referred to the General Counsel of the FDIC and the Chief Counsel of the OTS, or their respective designee(s), for resolution. All claims of privilege or confidentiality asserted by a transmitting party shall be respected by the receiving party pending resolution of any disagreement.

5. All materials exchanged hereunder that contain or constitute Confidential Information shall be deemed to be exchanged in circumstances of trust and confidence between parties having a common interest, and such materials shall enjoy all privileges and protection upon exchange hereunder as were available to the producing party to the maximum extent permitted by law.

6. The parties agree to take all actions reasonably necessary to preserve and maintain all privileges and claims of confidentiality related to Confidential Information produced pursuant to this Agreement. A party receiving Confidential

Information from the other will take no action the effect of which would be to limit, waive or jeopardize any such privilege or claim of confidentiality, including where applicable the use of such Confidential Information at hearings or other proceedings, without the express prior written permission of the party that produced the Confidential Information, which permission shall not be unreasonably withheld. Any disagreement as to the grant of such permission shall be referred to the General Counsel of the FDIC and the Chief Counsel of the OTS, or their respective designee(s), for resolution.

7. The OTS's access to and use of FDIC/RTC Confidential Information shall be solely for purposes of OTS in connection with investigation(s), trial(s) or hearing(s), and solely in respect of the particular matter or proceeding described in OTS's written request for information. The OTS shall restrict access to all Confidential Information solely to those persons at OTS and their agents under OTS's supervision and control (including, but not limited to outside counsel, consultants or experts) actively involved in the OTS's investigation or prosecution of claims relating to the matter or proceeding described in OTS's written request for information. The OTS shall maintain all Confidential Information obtained in a secure area with access limited to those persons who are authorized to receive Confidential Information. The copying of

documents containing Confidential Information shall be strictly controlled by the OTS in order to protect all claims of confidentiality and/or privileges applicable to such Confidential Information. No Confidential Information produced by the FDIC/RTC to OTS may be disclosed to persons other than OTS employees or agents without (i) advance written notification to the FDIC/RTC and (ii) express prior written permission from the FDIC/RTC, which permission shall not be unreasonably withheld. The FDIC/RTC shall promptly respond to OTS requests for permission under this paragraph. Any disagreement as to the grant of such permission shall be referred to the General Counsel of the FDIC and the Chief Counsel of the OTS, or their respective designee(s), for resolution.

8. The FDIC/RTC's access to and use of OTS Confidential Information shall be solely for purposes of FDIC/RTC in connection with investigation(s), trial(s) or hearing(s), and solely in respect of the particular matter or proceeding described in the FDIC/RTC's written request for information. The FDIC/RTC shall restrict access to all Confidential Information solely to those persons at FDIC/RTC and their agents under FDIC/RTC's supervision and control (including, but not limited to outside counsel, consultants or experts) actively involved in the FDIC/RTC's investigation or prosecution of claims relating to the matter or proceeding described in the FDIC/RTC's written request

for information. The FDIC/RTC shall maintain all Confidential Information obtained in a secure area with access limited to those persons who are authorized to receive Confidential Information. The copying of documents containing Confidential Information shall be strictly controlled by the FDIC/RTC in order to protect all claims of confidentiality and/or privileges applicable to such Confidential Information. No Confidential Information produced by the OTS to FDIC/RTC may be disclosed to persons other than FDIC/RTC employees or agents without (i) advance written notification to the OTS and (ii) express prior written permission from the OTS, which permission shall not be unreasonably withheld. The OTS shall promptly respond to FDIC/RTC requests for permission under this paragraph. Any disagreement as to the grant of such permission shall be referred to the General Counsel of the FDIC and the Chief Counsel of the OTS, or their respective designee(s), for resolution.

9. This Agreement does not invalidate legally enforceable claims of privilege by third parties and/or any confidentiality agreement(s) with any third party which a party to this Agreement believes is necessary to the investigation and/or prosecution of claims relating to thrift institutions, even if such confidentiality agreement(s) may restrict access to confidential information of the third party by the other party to this Agreement. Prior to entering into any such confidentiality

agreement, a good faith attempt shall be made to structure the agreement so as to permit access by the other party to this Agreement to confidential information of the third party. In lieu of producing documents the confidentiality of which is asserted by a third party (or which incorporate information that is arguably subject to such a confidentiality agreement), the party to this Agreement from whom such information is sought shall provide the other with the identity of the third party with whom such an agreement exists, together with a general description of the documents subject to such a confidentiality agreement. If an agreement permitting the production of such information cannot be reached with the third party, then the party to this Agreement requesting such production may seek compulsory process and nothing herein shall be a basis for denying the requesting party compulsory process.

10. All persons permitted access to Confidential Information (other than employees of the FDIC/RTC or OTS) shall execute a written certification in the form of the attached Exhibit, certifying that the person has read this Agreement, will comply with all terms herein, and will keep the information obtained confidential.

11. The OTS agrees that a disclosure of Confidential Information by the FDIC/RTC to the OTS pursuant to this Agreement

does not affect, waive or limit in any way any privilege or right to confidentiality which may be held by the FDIC/RTC. The FDIC/RTC specifically and expressly reserves the right to assert all privileges and/or claims of confidentiality which may apply to any Confidential Information that is the subject of any request(s) for disclosure by any third party.

12. The FDIC/RTC agrees that a disclosure of Confidential Information by the OTS to the FDIC/RTC pursuant to this Agreement does not affect, waive or limit in any way any privilege or right to confidentiality which may be held by the OTS. The OTS specifically and expressly reserves the right to assert all privileges and/or claims of confidentiality which may apply to any Confidential Information that is the subject of any request(s) for disclosure by any third party.

13. In the event that a party to this Agreement receives from a third party a request for Confidential Information of the other party to this Agreement, the party receiving such a request shall immediately notify the other party to this Agreement and shall cooperate fully in preserving and protecting the full scope of all privileges and claims of confidentiality which may apply to such Confidential Information.

14. Any party to this Agreement from whom Confidential Information is sought by a third party shall give the other party to this Agreement at least ten (10) days notice, where feasible (and where ten days notice is not feasible, such notice as is reasonable under the circumstances), prior to the production of any Confidential Information. Any party opposing the release of Confidential Information may then move or petition any court of competent jurisdiction to protect such Confidential Information from production. In the event any such motion or petition is filed, nothing in this Agreement shall prohibit a party from producing Confidential Information that is required to be produced by court order or practice.

15. Upon request by any party to this Agreement, the other party shall consent to any application by the requesting party to intervene in any action or proceeding for the purpose of asserting and preserving any privilege(s) and/or claim(s) of confidentiality.

16. The FDIC/RTC may request that OTS provide the FDIC/RTC with a schedule of depositions and/or hearings to be conducted in any court action(s) or other proceeding(s), and if such a request is made, the FDIC/RTC shall be given reasonable advance notice of any such deposition(s) or hearing(s). The OTS shall not object to the FDIC/RTC and/or its counsel attending any

such deposition(s) or hearing(s), but in the event any other party objects to such attendance, it shall be the responsibility of the FDIC/RTC to secure an appropriate order permitting attendance by the FDIC/RTC and/or its counsel. Moreover, such attendance by the FDIC/RTC shall not be for the purpose of questioning witnesses.

17. The OTS may request that the FDIC/RTC provide OTS with a schedule of depositions and/or hearings to be conducted in any court action(s) or other proceeding(s), and if such a request is made, the OTS shall be given reasonable advance notice of any such deposition(s) or hearing(s). The FDIC/RTC shall not object to OTS and/or its counsel attending any such deposition(s) or hearing(s), but in the event any other party objects to such attendance, it shall be the responsibility of the OTS to secure an appropriate order permitting attendance by OTS and/or its counsel. Moreover, such attendance by the OTS shall not be for the purpose of questioning witnesses.

18. No compulsory disclosure to third parties of material exchanged under this Agreement shall be deemed a waiver of any privilege or claim of confidentiality, except as expressly found by a court or judicial authority of competent jurisdiction.

19. In the event that any part of this Agreement is not enforced according to its terms by a court, that in no way shall affect the obligations of the parties to continue to protect as Confidential Information all documents and information produced pursuant to this Agreement.

20. No waiver by either party of any breach of any provision hereof shall be deemed to be a continuing waiver of similar breaches in the future or a waiver of a breach of any other provision hereof; nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the future exercise of any such right.

21. Upon conclusion of all proceedings undertaken by the OTS and/or the FDIC/RTC, all documents and materials and all copies thereof shall be returned to the party first producing the documents and/or materials, or in the alternative, such documents and/or materials shall be destroyed.

22. The individuals signing this Agreement have the power and authority to enter into this Agreement and bind the parties for which they sign.

23. This Agreement is binding upon and inures to the benefit of the respective predecessors, successors and assigns of the FDIC/RTC and OTS.

24. This Agreement is intended only to improve the internal management of the OTS, FDIC and RTC, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the OTS, FDIC, RTC, their officers, or any person.

FEDERAL DEPOSIT INSURANCE CORPORATION
AND RESOLUTION TRUST CORPORATION

By
Alfred J. T. Byrne
General Counsel

OFFICE OF THRIFT SUPERVISION

By
Harris Weinstein
Chief Counsel

Exhibit to Agreement
Regarding Confidential
Information dated
_______________, 1991

CERTIFICATION

I, ____, hereby certify as follows:

1. I have read and understand the Agreement Regarding Confidential Information dated ________________________, 1991, which Agreement sets forth a protocol for the protection of Confidential Information exchanged by the FDIC/RTC and OTS; and

2. I hereby agree to comply with the terms of said Agreement and to treat as strictly confidential all information and documents which are (i) covered by the Agreement and (ii) provided to me by the FDIC/RTC or OTS.

____
Witness

Date: ______________________

____
____

Document 7

Agreement Regarding Confidential Information

This Agreement Regarding Confidential Information (the "Agreement"), dated as of 1/27/93, is by and between the Resolution Trust Corporation (the "RTC") and the Office of the Comptroller of the Currency (the "OCC").

WHEREAS, the RTC has requested and expects in the future to request access to information ("Information") in the possession, custody, or control of the OCC, which may include Confidential Information, as that term in defined in this Agreement.

WHEREAS, the RTC requires the Information to meet its statutory obligation to conduct complete and thorough background checks on current or prospective RTC employees ("RTC Employees") and on individuals or entities performing services for the RTC or submitting offers to perform services for the RTC ("Contractors").

WHEREAS, the RTC has agreed to limit its use of any information it receives under the Agreement to functions directly related to the exercise of its authority as a United States Government Agency.

WHEREAS, the RTC has agreed to limit any request under this Agreement to information on current or former officers, directors or employees of a national bank.

WHEREAS, the RTC and the OCC have agreed that requests for Information on customers, borrowers or depositors of national banks or requests for Information to be used in civil litigation and administrative proceedings against current and former officers, directors, attorneys, accountants, or other institution affiliated parties of thrift institutions are beyond the scope of this Agreement.

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. Following execution of this Agreement, the RTC may request in writing from the OCC Information, including Confidential Information, with respect to current and former officers, directors and employees of national banks for use in the RTC's discharge of the RTC's responsibilities as a United States Government Agency. The OCC shall provide in response to such requests such Information in its possession, custody or control as the OCC, in its sole discretion, determines to be relevant and responsive to the RTC. Notwithstanding the foregoing, the OCC may withhold Confidential Information that, in its sole discretion, it determines to be privileged or otherwise in the interest of the OCC to withhold. In instances where the OCC withholds Confidential Information that is relevant or responsive to a request for information by the RTC, the OCC shall advise the RTC of the existence of such information.

2. Information provided under this Agreement shall be provided as promptly as feasible at times and places that are mutually agreeable. RTC requests for Information must be in writing and shall specifically identify the individual or entity about whom the Information is requested, the reason for the request, and the type of Information requested. In making such requests, the RTC shall provide the OCC with sufficient information to avoid imposing any undue burden upon the OCC and to permit the OCC to identify and produce the requested Information in the most cost effective and expeditious manner.

3. The OCC shall provide the RTC with on-line access to the OCC's Enforcement and Compliance Information System database ("ECIS database") in order to provide the RTC with direct access to Information requested under this Agreement. Notwithstanding paragraphs 1 and 2 of this Agreement, the RTC is not required to provide the OCC with a written request for Information prior to entering the ECIS data base. RTC must provide the OCC with a written report each calendar quarter that lists the name and identifying information on each individual on whom information was retrieved through the ECIS database. Failure to provide the quarterly reports in a timely and complete manner may result in denial of access to the ECIS database. Access to the ECIS database will be provided in a manner mutually agreeable to the OCC and the RTC.

4. The Information provided under this Agreement may include confidential and privileged supervisory and financial information ("Confidential Information"). Confidential Information may include, but is not necessarily limited to, notification of and information relating to:

a. the initiation of removal or suspension proceedings;
b. the issuance of notices of a civil money penalties assessments;
c. cease and desist orders;
d. temporary cease and desist orders;
e. formal agreements;
f. memoranda of understanding;
g. criminal referrals;
h. the initiation of an investigation that may lead to an enforcement action or other action by the OCC; and,
i. any other formal or informal enforcement action or other action taken by the OCC that could be considered adverse.

Notwithstanding the above, "Confidential Information" shall not include information that is available to the public.

5. Information provided under this Agreement shall remain the property of the OCC. All Confidential Information will be identified and marked or transmitted "Confidential".

6. The RTC shall not release, disseminate, or transfer, either verbally or by other means any Confidential Information to any person or entity, whether individual, corporate, or governmental (including any federal, state or local agency, court or legislative body), without the express prior written consent of the OCC. RTC agrees to make all reasonable efforts to provide OCC with adequate notice of its need for such express written consent.

7. Confidential Information may be produced in response to a subpoena or other process issued by a federal, state, or local agency, court or legislative body, but only after timely written notice to the OCC and either:

a. written approval by the OCC; or

b. an order to produce the Confidential Information that has become final with all rights of appeal either exhausted or lapsed.

It is understood that the OCC retains the option to oppose the subpoena or other process and that OCC shall be solely responsible for opposing such subpoena or process.

8. The RTC's access to and use of Confidential Information provided under this Agreement shall be solely for purposes of conducting complete and thorough background checks on RTC Employees

and Contractors, and the RTC agrees to limit its use of any such information to functions directly related to the exercise of its authority as a United States Government Agency. With the exception of access afforded to entities under paragraph 7 of this Agreement, the RTC shall restrict access to all Confidential Information solely to those persons at RTC and their agents under RTC's supervision and control actively involved in background investigations. The RTC shall maintain all Confidential Information obtained under this Agreement in a secure area with access limited to those persons who are authorized to receive Confidential Information.

9. The RTC shall neither award nor deny a contract to a Contractor solely on the basis of Information related to a pending proceeding, investigation, criminal referral or other OCC proceeding that has not resulted in a final and unappealable order, unless the RTC makes an independent determination that the Contractor does not meet the minimum standards of competence, integrity, fitness and experience or otherwise is ineligible to contract with the RTC.

10. The RTC shall not make employment decisions solely on the basis of Information related to a pending proceeding, investigation, criminal referral or other OCC proceeding that has not resulted in a final and unappealable order, unless the RTC

makes
an independent determination that the RTC Employee does not meet the minimum standards of competence, integrity, fitness and experience for a Federal employee.

11. This Agreement may be terminated with thirty (30) days advance written notice by the terminating party to the other party.

12. This Agreement or its termination shall not affect the rights and obligations of the parties under applicable statutes or regulations, or be deemed an interpretation of applicable statutes or regulations.

13. All documents and materials and all copies thereof provided under this Agreement shall, at the OCC's discretion, be returned to the OCC or destroyed after (1) the completion of a background check by RTC pertaining to that information, (2) the expiration of applicable statutes of limitations for any actions by the RTC authorized by federal law that would require retention of documents provided under this Agreement, and (3) after the expiration of record retention periods prescribed by federal guidelines for such documents.

14. The undersigned Individuals have the power and authority to enter into this Agreement and bind the parties for which they sign.

15. This Agreement is binding upon and inures to the benefit of the RTC and the OCC or their respective successors and assigns. This Agreement does not confer any right, benefit, or cause of action on any other entity or person, whether at law, equity, or otherwise.

RESOLUTION TRUST CORPORATION

By

Richard T. Aboussie
Acting General Counsel
Resolution Trust Corporation

OFFICE OF THE COMPTROLLER OF THE CURRENCY

By

Robert B. Serino
Deputy Chief Counsel
Comptroller of the Currency

[redacted]

Document 8

FDIC/RTC
Federal Deposit Insurance Corporation
Resolution Trust Corporation
Washington, D.C. 20429

Legal Division

STATEMENT OF POLICY AND PROCEDURES CONCERNING THE SHARING OF CONFIDENTIAL INFORMATION BETWEEN THE FDIC AND THE RTC

Agreement Regarding Confidential Information

This statement sets forth the Policy and Procedures to be followed by the Legal Divisions of the FDIC and the RTC concerning sharing and access to confidential information between the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC).

Policy Objective. It is the policy of the FDIC and RTC to cooperate fully with each other to accomplish our individual missions to investigate and bring related but separate claims involving activities of failed financial institutions. Therefore, the agencies have adopted procedures to share investigatory information and legal analyses to achieve a more efficient and cost effective use of resources and a more effective pursuit of wrongdoing. These procedures preserve and retain, to the fullest extent permitted by law, any and all privileges, immunities and claims of confidentiality possessed by the agreeing agencies.

Procedures to be Followed. The procedures to be followed are set forth in the Agreement Regarding Confidential Information attached hereto.

Effective Date. This Statement of Policy and Procedures is effective as of January 1, 1992.

Attachment: Agreement Regarding Confidential Information

AGREEMENT REGARDING CONFIDENTIAL INFORMATION

This Agreement Regarding Confidential Information (the "Agreement"), dated as of January 1, 1992, is by and between the Federal Deposit Insurance Corporation ("FDIC") and the Resolution Trust Corporation ("RTC") in all of their capacities.

WHEREAS, the FDIC and RTC are vested by law with responsibility for maximizing the return on assets of thrift institutions, including claims relating to the failure of such institutions, and investigating and prosecuting claims relating to the activities of current and former officers, directors, attorneys, accountants, and other institution-affiliated parties of financial institutions;

WHEREAS, the FDIC and RTC possess and expect to obtain and generate "Confidential Information," which for purposes of this Agreement shall include information and documents covered by the attorney-client, work-product, and deliberative process privileges, as well as other statutory and common law privileges and protection of confidentiality, including but not limited to information and documents which are confidential within the meaning of Federal Rules of Civil Procedure 26(b)(4) and/or 5 U.S.C. §§ 552(b)(5) and (b)(7);

WHEREAS, the RTC has requested and expects in the future to request access to documents and other information in the possession, custody or control of the FDIC, which may include Confidential Information, in order to conduct its investigations and otherwise fulfill its statutory obligations;

WHEREAS, the FDIC has requested and expects in the future to request access to documents and other information in the possession, custody or control of the RTC, which may include Confidential Information, in order to conduct its investigations and otherwise fulfill its statutory obligations;

WHEREAS, the FDIC and the RTC anticipate that civil litigation and administrative proceedings will be brought against current and former officers, directors, attorneys, accountants, other institution-affiliated parties of financial institutions, and related parties on the same or similar issues, and the FDIC and the RTC therefore have a strong common interest in their attorneys and investigators sharing the fruits of their respective research, opinions, advice, investigations, analyses, mental impressions, and trial preparation;

WHEREAS, the FDIC and RTC are charged with responsibility for investigating and bringing related but separate claims involving activities of financial institutions and the FDIC and RTC therefore seek (a) to share investigatory information and legal analyses to achieve a more efficient and cost-effective use of resources and a more effective pursuit of wrongdoing and (b) to avoid wasteful and inefficient duplication of cost and effort in furtherance of the public interest;

WHEREAS, the FDIC and RTC seek to preserve and retain, to the fullest extent permitted by law, any and all privileges, immunities and claims of confidentiality which each may possess as to any Confidential Information exchanged;

WHEREAS, the FDIC and RTC wish to establish a procedure pursuant to which Confidential Information may be exchanged in a manner that preserves all such privileges, immunities and claims of confidentiality to the fullest extent permitted by law;

WHEREAS, the public policy underlying the creation of the FDIC and RTC, their overlapping authority, the express congressional directives that the FDIC and RTC cooperate, the principles underlying the attorney-client, work-product, and deliberative process privileges, and the case law addressing the sharing of Confidential Information among parties with common interest support the expectation that the FDIC and RTC will not waive the attorney-client, work-product or any other privilege(s) and/or claims of confidentiality which may apply to information exchanged in accordance with this Agreement; and

WHEREAS, it is anticipated by the parties that material to be exchanged under this Agreement shall include materials located or generated within many different jurisdictions and that this Agreement will foster the uniform and unequivocal protection of any privilege(s) or claim(s) of confidentiality which may apply to such materials;

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. Following execution of this Agreement, the FDIC and RTC shall provide to each other such information in their possession, custody or control as the other requests, including Confidential Information, for use in the discharge of the other's

responsibilities. Such information shall be provided as promptly as feasible at times and places that are mutually agreeable.

2. Except as provided by statute, Confidential Information shall be provided between the FDIC and RTC solely and exclusively pursuant to this Agreement and in accordance with the procedures set forth below. Confidential Information so provided shall be used only in a manner fully consistent with the preservation of its confidentiality and of all applicable privileges and immunities.

3. The FDIC and RTC shall promptly provide each other with all information in their possession, custody or control as requested in writing. Such requests shall state the purpose for which the information is sought, and if appropriate, specifically identify the institution(s), person(s) or firm(s) as to which the information is requested, the nature and status of the investigation or proceeding for which the information is sought, and the type of information requested. In making such requests, the FDIC and RTC shall provide each other with sufficient information to avoid imposing any undue burden upon the producing party and to permit the producing party to identify and produce the requested information in the most cost effective and expeditious manner. A written request made pursuant to this Agreement shall be deemed a written request by the head of the requesting party, as provided in 5 U.S.C. § 552a(b)(7) or any successor provision.

4. A party transmitting written Confidential Information to the other shall designate such materials as "Confidential" and/or mark each such document or thing transmitted with a "Confidential" or "Privileged" stamp. The failure to designate or so mark any documents will not be deemed a waiver of any claim of privilege or right to confidentiality and each party will take all steps necessary to protect the confidentiality of Confidential Information which as a result of inadvertence does not bear a "Confidential" or "Privileged" stamp. Any disagreement as to categorization of documents as Confidential Information shall be referred to the General Counsel of the FDIC and the General Counsel of the RTC, or their respective designee(s), for resolution. All claims of privilege or confidentiality asserted by a transmitting party shall be respected by the receiving party pending resolution of any disagreement.

5. All materials exchanged hereunder that contain or constitute Confidential Information shall be deemed to be exchanged in circumstances of trust and confidence among parties having a common interest, and such materials shall enjoy all privileges and protection upon exchange hereunder as were available to the producing party to the maximum extent permitted by law.

6. The parties agree to take all actions reasonably necessary to preserve and maintain all privileges and claims of

confidentiality related to Confidential Information produced pursuant to this Agreement. A party receiving Confidential Information from the other will take no action the effect of which would be to limit, waive or jeopardize any such privilege or claim of confidentiality, including where applicable the use of such Confidential Information at hearings or other proceedings, without the express prior written permission of the party that produced the Confidential Information, which permission shall not be unreasonably withheld. Any disagreement as to the grant of such permission shall be referred to the General Counsel of the FDIC and the General Counsel of the RTC, or their respective designee(s), for resolution.

7. The RTC's access to and use of FDIC Confidential Information shall be: (a) for RTC's use in connection with investigation(s), trial(s) or hearing(s); and (b) for RTC's use in determining litigation policy and managing litigation in cooperation with the FDIC. The RTC shall restrict access to all Confidential Information solely to those persons at the RTC and their agents under the RTC's supervision and control (including, but not limited to outside counsel, consultants or experts) actively involved in the case or function described in its written request for information. The RTC shall maintain all Confidential Information obtained in a secure area with access limited to those persons who are authorized to receive Confidential Information. The copying of documents containing Confidential Information shall be strictly controlled by the RTC

in order to protect all claims of confidentiality and/or privileges applicable to such Confidential Information. No Confidential Information produced by the FDIC to the RTC may be disclosed to persons other than RTC employees or agents without (i) advance written notification to the FDIC and (ii) express prior written permission from the FDIC, which permission shall not be unreasonably withheld. The FDIC shall promptly respond to RTC requests for permission under this paragraph. Any disagreement as to the grant of such permission shall be referred to the General Counsel of the FDIC and the General Counsel of the RTC or their respective designee(s), for resolution.

8. The FDIC's access to and use of RTC Confidential Information shall be: (a) for FDIC's use in connection with investigation(s), trial(s) or hearing(s); and (b) for FDIC's use in determining litigation policy and managing litigation in cooperation with the RTC. The FDIC shall restrict access to all Confidential Information solely to those persons at the FDIC and their agents under the FDIC's supervision and control (including, but not limited to outside counsel, consultants or experts) actively involved in the case or function described in its written request for information. The FDIC shall maintain all Confidential Information obtained in a secure area with access limited to those persons who are authorized to receive Confidential Information. The copying of documents containing Confidential Information shall be strictly controlled by the FDIC in order to protect all claims of confidentiality and/or

privileges applicable to such Confidential Information. No Confidential Information produced by the RTC to the FDIC may be disclosed to persons other than FDIC employees or agents without (i) advance written notification to the RTC and (ii) express prior written permission from the RTC, which permission shall not be unreasonably withheld. The RTC shall promptly respond to FDIC requests for permission under this paragraph. Any disagreement as to the grant of such permission shall be referred to the General Counsel of the RTC and the General Counsel of the FDIC or their respective designee(s), for resolution.

9. This Agreement does not invalidate legally enforceable claims of privilege by third parties and/or any confidentiality agreement(s) with any third party which a party to this Agreement believes is necessary to the investigation and/or prosecution of claims relating to financial institutions, even if such confidentiality agreement(s) may restrict access to confidential information of the third party by the other party to this Agreement. Prior to entering into any such confidentiality agreement, a good faith attempt shall be made to structure the agreement so as to permit access by the other party to this Agreement to confidential information of the third party. In lieu of producing documents the confidentiality of which is asserted by a third party (or which incorporate information that is arguably subject to such a confidentiality agreement), the party to this Agreement from whom such information is sought shall provide the other with the identity of the third party with

whom such an agreement exists, together with a general description of the documents subject to such a confidentiality agreement. If an agreement permitting the production of such information cannot be reached with the third party, then the party to this Agreement requesting such production may seek compulsory process and nothing herein shall be a basis for denying the requesting party compulsory process.

10. All persons permitted access to Confidential Information (other than employees of the FDIC or RTC) shall execute a written certification in the form of the attached Exhibit, certifying that the person has read this Agreement, will comply with all terms herein, and will keep the information obtained confidential.

11. The RTC agrees that a disclosure of Confidential Information by the FDIC to the RTC pursuant to this Agreement does not affect, waive or limit in any way any privilege or right to confidentiality which may be held by the FDIC. The FDIC specifically and expressly reserves the right to assert all privileges and/or claims of confidentiality which may apply to any Confidential Information that is the subject of any request(s) for disclosure by any third party.

12. The FDIC agrees that a disclosure of Confidential Information by the RTC to the FDIC pursuant to this Agreement does not affect, waive or limit in any way any privilege or right to confidentiality which may be held by the RTC. The RTC specifically and expressly reserves the right to assert all

privileges and/or claims of confidentiality which may apply to any Confidential Information that is the subject of any request(s) for disclosure by any third party.

13. In the event that a party to this Agreement receives from a third party a request for Confidential Information of the other party to this Agreement, the party receiving such a request shall immediately notify the other party to this Agreement and shall cooperate fully in preserving and protecting the full scope of all privileges and claims of confidentiality which may apply to such Confidential Information. However, the principal responsibility for asserting and acting to preserve the confidentiality of Confidential Information shall rest with the party first producing the Confidential Information.

14. Any party to this Agreement from whom Confidential Information is sought by a third party shall give the other party to this Agreement at least ten (10) days' notice, where feasible (and where ten days' notice is not feasible, such notice as is reasonable under the circumstances), prior to the production of any Confidential Information. Any party opposing the release of Confidential Information may then move or petition any court of competent jurisdiction to protect such Confidential Information from production. Nothing in this Agreement shall prohibit a party from producing Confidential Information that is required to be produced by court order.

15. Upon request by any party to this Agreement, the other party shall consent to any application by the requesting

party to intervene in any action or proceeding for the purpose of asserting and preserving any privilege(s) and/or claim(s) of confidentiality.

16. The RTC may request that the FDIC provide the RTC with a schedule of depositions and/or hearings to be conducted in any court action(s) or other proceeding(s), and if such a request is made, the RTC shall be given reasonable advance notice of any such deposition(s) or hearing(s). The FDIC shall not object to the RTC and/or its counsel attending any such deposition(s) or hearing(s), but in the event any other party objects to such attendance, it shall be the responsibility of the RTC to secure an appropriate order permitting attendance by the RTC and/or its counsel. Moreover, such attendance by the RTC shall not be for the purpose of questioning witnesses.

17. The FDIC may request that the RTC provide the FDIC with a schedule of depositions and/or hearings to be conducted in any court action(s) or other proceeding(s), and if such a request is made, the FDIC shall be given reasonable advance notice of any such deposition(s) or hearing(s). The RTC shall not object to the FDIC and/or its counsel attending any such deposition(s) or hearing(s), but in the event any other party objects to such attendance, it shall be the responsibility of the FDIC to secure an appropriate order permitting attendance by the FDIC and/or its counsel. Moreover, such attendance by the FDIC shall not be for the purpose of questioning witnesses.

18. No compulsory disclosure to third parties of material exchanged under this Agreement shall be deemed a waiver of any privilege or claim of confidentiality, except as expressly found by a court or judicial authority of competent jurisdiction.

19. In the event that any provision of this Agreement is not enforced according to its terms by a court, that in no way shall affect the obligations of the parties to continue to protect as Confidential Information all documents and information produced pursuant to this Agreement.

20. No waiver by either party of any breach of any provision hereof shall be deemed to be a continuing waiver of similar breaches in the future or a waiver of a breach of any other provision hereof; nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the future exercise of any such right.

21. Upon conclusion of the proceedings or function for which access to Confidential Information was granted, all documents and materials containing such Confidential Information and all copies thereof shall be returned to the party first producing the documents and/or materials or, in the alternative, such documents and/or materials shall be destroyed; provided, however, that if the party requesting such documents and/or materials has a continuing need therefore, it may retain them with the written consent of the party first producing them, which consent shall not be unreasonably withheld.

22. The individuals signing this Agreement have the power and authority to enter into this Agreement and bind the parties for which they sign.

23. This Agreement is binding upon and inures to the benefit of the respective predecessors, successors and assigns of the FDIC and the RTC.

24. The execution of this Agreement is intended to formalize arrangements between the parties. Any exchange of Confidential Information between the parties prior to the effective date of this Agreement shall not be deemed to constitute a waiver of any privilege, immunity, or other claim of confidentiality.

25. This Agreement is intended to improve the internal management of the FDIC and the RTC, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the FDIC, RTC, their officers, or any person.

FEDERAL DEPOSIT INSURANCE CORPORATION

By ______________________
Alfred J. T. Byrne
General Counsel

RESOLUTION TRUST CORPORATION

By ______________________
Gerald L. Jacobs
General Counsel

Exhibit to Agreement
Regarding Confidential
Information dated as of
January 1, 1992

CERTIFICATION

I, ______________________________________, hereby certify as follows:

1. I have read and understand the Agreement Regarding Confidential Information dated as of January 1, 1992 which Agreement sets forth a protocol for the protection of Confidential Information exchanged by the FDIC and the RTC; and

2. I hereby agree to comply with the terms of said Agreement and to treat as strictly confidential all information and documents which are (i) covered by the Agreement and (ii) provided to me by the FDIC or RTC.

____
Witness

Date:______________________________

Document 9

DIRECTIVE SYSTEM

Circular 1211.3
Carol O'Brien
202-416-7314
February 2, 1994
Co No 94-010

TO: All RTC Employees

FROM: Dennis F. Geer
Vice President for Administration
and Corporate Relations

SUBJECT: Procedures for Congressional and White House Correspondence and Telephone Inquiries

1. Purpose. To notify all employees of the standardized procedures to be followed in the handling of communication with public officials, including Congressional and White House correspondence and telephone inquiries.

2. Scope. The Office of Governmental Relations (OGR) procedures apply to all employees assigned to the RTC, conservatorship and receivership employees, contractors, and outside legal counsel. These procedures do not apply to employees in the Office of Inspector General.

3. Overview. The purpose of these OGR procedures is to ensure that RTC employees respond properly, within established time frames, to inquiries and complaints from public officials, their staffs and the constituencies they represent, while providing resolutions equitable to both the public interest and the Corporation. This directive establishes the authority for responding to Congressional and White House correspondence and telephone inquiries, and the authority to sign such correspondence. It also provides guidance concerning the format, accepted writing style, and specific grammatical rules for those drafting Congressional and White House correspondence for review by the OGR in Washington and/or the Senior Legislative Information Specialist at each Field Office.

4. Objectives. OGR Program objectives are:

a. To identify, develop, and communicate standards for RTC employees to follow when assisting OGR staff in responding to public officials.

b. To implement an efficient and effective system which public officials and their staffs can utilize to ensure complaints and inquiries are registered, analyzed, and resolved.

c. To ensure consistency in responding to inquiries and complaints.

d. To establish measures designed to avoid political favoritism and undue influence.

5. Definitions

a. Congressional Inquiry. Any and all correspondence or telephone inquiry directed to the RTC by a Member of Congress and/or their designee.

b. Constituent. A member of the general public who has requested that an elected representative act on his\her behalf regarding matters pertaining to the RTC.

c. Office of Governmental Relations (OGR) Staff. Any employee under the direction of the Director of the Office of Governmental Relations in Washington, and the Senior Legislative Information Specialist within each Field Office and their immediate support staff.

d. Public Official. Any federal, state, or locally-elected official.

e. Resolution. The proper and timely communication of information which is comprehensive and accurate in its factual content and policy compliance. This information ensures that an equitable decision has been reached for both the constituent and the Corporation, but does not necessarily grant the constituent all that he or she seeks as a final determination.

f. White House Inquiry. Any and all correspondence or telephone inquiry forwarded by the White House to the RTC for response.

6. Inquiry Procedures

a. Written/Facsimile Inquiries. All correspondence concerning the RTC from a public official received during the ordinary course of business by employees assigned to RTC Headquarters in Washington, temporary personnel, contracted firms or individuals, must be immediately referred to the Office of Governmental Relations in Washington for tracking and assignment purposes. Similarly, all correspondence concerning the RTC from a public official received during the ordinary course of business by employees assigned to the respective Field Offices, and that received by temporary personnel, contracted firms or individuals of those respective Field Offices, must be immediately referred to the Senior Legislative Information Specialist of the Field Office. The appropriate OGR/Field Office staff will enter such correspondence into the standardized correspondence database for response assignment, and will determine the proper signatory for the outgoing response. Only authorized RTC staff may sign a letter in response to a Member of Congress or respond directly to a constituent as a result of communication from a Member of Congress or the White House. See Attachment A for Congressional Correspondence Procedures.

b. Telephonic Inquiries. All telephone calls from public officials are to be referred to OGR staff in Washington or the Senior Legislative Information Specialist at the Field Office: calls not so referred must be reported to appropriate OGR or field staff.

7. Signing Authority. Correspondence on behalf of the Corporation directed to a Member of Congress or in answer to a referral from the White House is to be signed only by the Chief Executive Officer (CEO), the Director of OGR, or the Vice President in the Field Office. The Director of OGR may delegate the authority to sign to the Deputy Director of OGR. The Vice President may delegate the authority to sign; however, the ultimate responsibility for the accuracy, timeliness, and overall presentation of this correspondence remains with the Vice President. Before signature and issuance, letters drafted by Field Office personnel must be reviewed by the Senior Legislative Information Specialist. Exceptions to this signing authority must be approved by the Director of OGR or the Senior Legislative Information Specialist.

Correspondence Signed by CEO. All Congressional correspondence to be signed by the CEO must be routed through, and reviewed by, the head of the division or the field Vice President responsible for generating the response. Appropriately, that official should indicate his/her approval of the correspondence by signing the Correspondence Referral sheet (see Attachment B).

8. Resolution Time. All written inquiries should be answered within the parameters established by the Corporation: this time frame may vary, but is currently not to exceed twenty business days. Should an inquiry require more than twenty days for a response, an interim reply must be forwarded to the originating Congressional office, or constituent designated by the White House. This interim reply will be prepared by OGR staff or the Senior Legislative Information Specialist based upon information provided by the individual assigned responsibility for the final response.

9. Interaction with Public Officials. OGR staff in Washington and Senior Legislative Information Specialists are to be notified of all meetings between RTC program office staff and public officials. Specifically, OGR staff must be included in all meetings between RTC program office staff and Members of Congress and their staffs. Each head of a Program Office should be notified that these meetings, without exception, must be coordinated through Governmental Relations staff. These meetings include, but are not limited to, seminars, town meetings, demonstrations, tours of RTC facilities, etc.

10. Public Official Telephone Logs. Each member of the Governmental Relations staff shall provide, on a quarterly basis, a list of telephone calls received from public officials concerning a case-specific matter. This list should include the date of the call, name of the caller, public official represented, and subject matter. These will be forwarded to and maintained by the Public Reading Room in Washington. Should requests for information come in from the public, appropriate identifying data shall be redacted by FOIA staff as necessary.

11. Effective Date. This directive is effective immediately.

Attachments

Attachment A

CONGRESSIONAL CORRESPONDENCE PROCEDURES

OVERVIEW: A properly written response to a Member of Congress should be written to succinctly answer the question posed by the Congressional Inquiry and should do so with both technical accuracy and proper grammar. Therefore, the person authoring the response to the inquiry must carefully review the incoming Congressional correspondence and accompanying documents and respond to all questions and concerns raised therein. Our goal is to be responsive, resolve the issues raised in the Congressional correspondence, and do so in a timely manner. Congressional correspondence issued by the RTC may well be, for many recipients, their only contact with the RTC, and the content, tone, and accuracy of such correspondence must reflect this opportunity to best represent the RTC.

ALL CONGRESSIONAL LETTERS RECEIVED IN RTC HEADQUARTERS SHOULD BE SENT IMMEDIATELY TO THE OFFICE OF GOVERNMENTAL RELATIONS (OGR) FOR TRACKING PURPOSES AND ASSIGNMENT OF THE RESPONSIBILITY FOR A RESPONSE. OGR in Washington or the Senior Legislative Information Specialist in the Field Office will determine who is to sign the outgoing Congressional letter. An RTC staffer is not to sign Congressional correspondence or respond to a constituent directly as a result of a letter from a Member of Congress or the White House. All telephone inquiries from Members of Congress should be referred to OGR, and if not referred, then reported to OGR.

Each incoming Congressional Inquiry is directed to an RTC division for response accompanied by a referral sheet (Attachment B). Each draft submitted to OGR must be returned with a completed correspondence referral sheet containing the name of the author and the signatures of those division personnel responsible for the review process. (Letters to be signed by the CEO must be reviewed by the head of the division or field Vice President responsible for the draft.) All enclosures to the letter should accompany the draft response. The instructions on the referral sheet are to be followed when submitting the draft to OGR.

TONE OF LETTERS: Facts and proper grammar are important. The proper letter will also communicate the tone or "feeling" of the letter. We want our letters to be friendly, though professional. Letters are meant to be helpful, rather than negative, and should be explanatory without being defensive. They should answer the question, or explain the problem or situation, while retaining a positive outlook. We are not writing simply to justify the position of a managing agent, a SAMDA contractor, or of any one individual within the RTC. We are trying to provide a fair, courteous, and unbiased appraisal of the situation.

PARTS OF LETTER: Each letter can be broken down into several parts. These include:

1. The address
2. The salutation
3. The introductory paragraph
4. The body of the letter--the facts

5. **The summary paragraph--the conclusions**
6. **The closing paragraph**
7. **The signature lines**

Each of these parts will be discussed in order, with variables addressing how different situations should be handled.

1. THE ADDRESS

Most Congressional letters will be addressed to a Senator or Representative at their office in either Washington or their elective district. A careful review of the incoming letter will indicate if the response should be directed to the Washington or district office. The Washington office is the proper address should there be no mention of the district office.

Washington Office letters: The proper address for the Washington office of a U.S. Senator is:

Honorable [Full Name of Senator]
United States Senate
Washington, D.C. 20510

The proper address for the Washington office of a U.S. Representative is:

Honorable [Full Name of Representative]
House of Representatives
Washington, D.C. 20515

Notes: **The full name is always used. A room number or building name is not needed. There is no space between D. and C. There are two spaces before the zip code. Note the different zip codes for the Senate and the House and keep distinct.**

Exceptions: **The principal exception deals with persons in Congressional leadership positions. If a letter is written from a Member occupying a "leadership" position, it will say so, and will be addressed as such in response. The letterhead and the signature lines will designate in which capacity the letter is being written.**

For example, if Senator Riegle writes a letter as Chairman of the Senate Banking Committee, the address should reflect this. The proper address would then be:

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

However, if Senator Riegle is writing from his personal office, the

normal address would be used. The same rules apply for Representatives.

District Office Letters: Letters from district offices require a different address and title identification. An example of the proper address for the district office of a Senator is:

Honorable [Full Name of Senator]
United States Senator
Suite 101
119 East Marcy
Santa Fe, New Mexico 87501

An example of the proper address for the district office of a Representative is:

Honorable [Full Name of Representative]
Representative, U.S. Congress
220 Post Office Building
150 North Limestone Street
Springfield, Ohio 45501

Notes: Generally, all words should be fully spelled out, within reason. The "U.S." in the representative's address is an exception. Note "Senator" when writing to the district office. State names are to be spelled out. District offices almost never use leadership names.

Other addresses: Another address often required is the address of a constituent when we are asked to reply directly to a constituent. Normal business form should be used in these circumstances, again spelling out as much as practical and using full names found in the incoming correspondence. Initials of a personal name are typed without spaces. Unless it is clear that a woman is married, "Ms." should be used. " Mr." should always be used for men.

References to staff: Many letters ask that the response be directed to the attention of a staff member. This is not done in the address section of the letter itself. It is done only on the envelope for the outgoing letter. All letters to Congressional offices are addressed to the Senator or Representative. The exception is when the incoming letter is issued directly by a staff member who personally signs the letter. Should the author/recipient not be clear, address the response to the Member and not to the staffer.

2. SALUTATION

This introduces the person to whom the letter is being sent. The proper salutation for a U.S. Senator is:

Dear Senator Sarbanes:

Example of the proper salutation for a Representative is:

Dear Mr. Inslee: or
Dear Ms. Schroeder:

Notes: If the letter is to be addressed using a first name, OGR staff will address the letter accordingly. The incoming letter usually indicates whether "Mrs." or "Ms." is appropriate. Use "Ms." if in doubt. Committee leadership positions are addressed with the leadership title. For example, Chairmen of Committees and Subcommittees are addressed as:

Dear Mr. Chairman:

Other special salutations include:

Dear Mr. Speaker: (Speaker of the House)
Dear Mr. Leader: (Majority Leader of Senate)

3. INTRODUCTORY PARAGRAPH

The introductory paragraph thanks the Member of Congress for the original inquiry; names the constituent, if any; indicates the concern of the Member or constituent; and details how the RTC is involved in the situation. (RTC is always spelled in full in this paragraph.) FORMAT: Letters are to be prepared in block form, using left margin justification only.

All correspondence from the White House is addressed to the constituent and will be answered by naming the person to whom the constituent wrote, that is, the President, First Lady Hillary Rodham Clinton, etc.

> For example: "President Clinton has asked the Resolution Trust Corporation to respond to your letter concerning ...."

The introductory paragraph usually contains three or four sentences. The first sentence in a standard letter written by OGR would be:

"Thank you for your letter on behalf of (constituent's name), who wrote concerning (state concern in few words) with (name institution concerned, if there is one), presently under the jurisdiction of the Resolution Trust Corporation."

If the letter is written to the CEO, the introduction would depend upon who will sign the letter. If the CEO will sign, the form would be the same as above. If OGR or the field Vice President will sign and the letter was addressed to the CEO, the introduction would read:

"Chief Executive Officer (CEO's name) has asked me to thank you for your letter ... etc."

If the letter was referred to the RTC from another agency, the referral should be mentioned in the opening sentence. For example: If the letter was written to the Office of Thrift Supervision, and was referred to the RTC from OTS, the opening sentence would read:

"Thank you for your letter, originally addressed to the Office of Thrift Supervision, on behalf of ... etc."

The first sentence should name the constituent if there is one. Always use Mr., Ms., etc. for constituent names. If a company is represented, name both the constituent signing the incoming letter, and the company, if the company is involved in the issue. Use the company's name identified on its letterhead.

The second sentence should provide the specific concern of the constituent in general terms.

The third sentence should indicate the connection of the RTC to the stated concern. If there is a thrift institution involved, we should state the thrift is under the jurisdiction of the RTC. (Note that there will be cases where the thrift has been resolved, and the difference in status will have to be noted. A final termination of an institution will also affect how the institution is identified).

While it is important to use flexibility to make sure the paragraph reads well, a generic paragraph might look like this:

"Thank you for your letter on behalf of Mr. Robert V. Twoshoes concerning his loan with First Nationwide Federal Savings Bank, Atlanta, Alaska. Mr. Twoshoes is concerned his loan is being foreclosed, although he indicates he has made all the necessary payments. First Nationwide is presently under the jurisdiction of the Resolution Trust Corporation."

4. BODY OF THE LETTER

The body of the letter should contain, as succinctly as possible, enough information to allow for the conclusion in the later paragraph. Superfluous information should be avoided. These paragraphs should include the "who," "why," "where," "when," and "how" of the situation, all written from a factual point of view which would make sense to the constituent, who may know very little about the RTC or the day-to-day operations of savings and loan associations.

It is important to initiate the preparation of a written response by understanding exactly what questions are being asked of the RTC. Therefore, the incoming correspondence and attendant documents must be carefully reviewed. The proposed conclusion should be reviewed and evaluated in comparison to the initial inquiry, and stated with the requisite technical information necessary to complete the letter.

Generally, paragraphs would flow in a chronological order from the time the situation arose to the conclusion of RTC involvement, or to the present RTC involvement. It is usually important to identify where the RTC is positioned at the time the response is written.

Note: If a specific outcome satisfactory to the constituent has been reached, very little factual detail is needed. The positive conclusion can be combined with the facts to produce one paragraph describing the outcome. A long explanation of a positive outcome is usually unnecessary.

5. CONCLUDING PARAGRAPH

The concluding paragraph should identify where the situation stands at the writing of the response, if not made clear in the previous paragraph/s, and should include what the RTC is doing to resolve the matter. This paragraph should also be written to maintain, to the extent possible, an ongoing, positive business relationship with the constituent and the Member. If possible, a time frame for action should be included. If a specific RTC employee can be helpful to the constituent, include the name, title, and telephone number of that employee. We should be sympathetic to any particular problems we may have caused and sympathetic to problems beyond RTC control.

6. CLOSING PARAGRAPH

The closing paragraph should include an expression of our hope that the information is useful. It may also simply thank the Member for his\her interest in the RTC. It should usually contain two sentences.

> For example: "We hope this information is useful to you. If you have any questions, please let me know."

7. COMPLIMENTARY CLOSE AND SIGNATURE LINES

Note: Unless otherwise expressly noted, all Congressional correspondence should be signed only by the CEO, the OGR Director, or a field Vice President.

If the CEO is to sign, the complimentary close and signature lines are:

Sincerely,

Roger C. Altman
Interim CEO

Note: The CEO's letters are not to be dated until they are signed. The date should be lined up with the "Sincerely" in the complimentary close. There are four lines between "Sincerely" and the CEO's name.

If the letter will be signed by OGR/Washington, the signature lines will be as follows:

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations

Note: There are 6 lines between "Sincerely" and the name. There are six tabs to start typing.

Notes: If there are enclosures, the "Enclosure(s)" notation should be at left margin two lines below the bottom of the signature line.

"cc:" These should also be two lines below the bottom of the signature line if no "Enclosure" is noted, or two lines below "Enclosure" if it is used.

If a Member of Congress requests that we respond directly to a constituent, the Member should receive a cc. No internal distribution is ever put on an outgoing Congressional letter.

Things to remember:

1. Be sure to "spell check" at end of work to help assure against typographical error.

2. Do not use the word "as" when other, better words exist, such as "because."

3. If there is more than one page, always number the subsequent pages. The second page and subsequent pages should be done as follows (at upper left margin):

   Honorable _______________
   Page 2

4. The Resolution Trust Corporation is always spelled out the first time it is used in the body of the letter. Thereafter, use RTC, which is usually preceded by "the" in regular usage.

5. All margins are one inch, not less.

6. Full justification on Mr. Altman's letter and left margin justification only on Mr. Knight's letters.

Attachment B

OFFICE OF GOVERNMENTAL RELATIONS
CORRESPONDENCE REFERRAL

Document: 11696 Document Date: 93/07/26 Due Date: 93/08/13
Input Date: 93/07/30

NAME: Smith, Honorable John Copies To:
Standard Dist.

ADDRESS: House of Representatives
Washington DC 20515

Synopsis: EMPLOYEES, CURRENT AND FORMER OF [ABC] BANKING, FSA, YOURTOWN, NY, SUBMIT [PETITION] CONCERNING RTC DISPOSITION OF [PENSION] PLAN WANTS [MEETING].
Action: Prepare for Peter E. Knight's signature

OLA Contact: Carol O'Brien (202) 416-7314

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 828-801 17th Street) with WordPerfect disk or by E-mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-2249.

* This form is necessary for review purposes *

Assigned To: VFORGE OLA-RICHARD OTT

Date: 93/07/30

AUTHOR: ______________________ PHONE: ______________

REVIEWED BY:	DATE IN	OUT	REVIEWED BY:	DATE IN	OUT

Document 10

DIRECTIVE SYSTEM

Circular 1031.1
Richard White
703-908-6137
August 13, 1993
Co No 93-086

TO: All Washington and Field Offices

FROM: Dennis F. Geer
Vice President for Administration
and Corporate Relations

SUBJECT: The Privacy Act of 1974: Rights and Responsibilities

1. Purpose. To provide guidance to RTC supervisors and employees, other than the staff of the Office of Inspector General (OIG) which will receive independent guidance, about the rights provided and the responsibilities imposed by the Privacy Act of 1974 (5 U.S.C. 552a).

2. Background. The Privacy Act provides rights to and imposes responsibilities on each RTC employee. Employees have rights under the Privacy Act because the RTC maintains records about them. Supervisors and employees have responsibilities under the Privacy Act because, regardless of title, position, and grade, RTC employees invariably come into contact with records about other individuals, many of which are maintained in Privacy Act System of Records. Because of the Privacy Act's wide-ranging impact, it is essential that each employee become familiar with its provisions.

The Privacy Act provides a mechanism whereby the public is informed of the type of personal information Federal agencies maintain on individuals in "Systems of Records," i.e., information in files that is retrieved by name or personal identifier, such as Social Security numbers. That Act also established a process by which individuals may request access to and, if necessary, amendment of information about themselves. On the other hand, the Freedom of Information Act (FOIA) gives anyone the right to access information held by Federal agencies regardless of how that information is maintained. Generally, if an agency has information in its possession the information must be released pursuant to a FOIA request UNLESS one of the statutory exemptions apply. For example, sensitive business information, internal pre-decisional memoranda and sensitive personal information is usually exempt from release under the FOIA. Requests for information submitted under either statute should always be processed according to the procedures outlined in RTC Circular 1023.1, "Procedures for Processing Freedom of Information and Privacy Act Requests."

3. Definitions. The following definitions apply throughout this directive.

a. Record. Any item, collection, or grouping of information about an individual that is maintained by the RTC in its corporate capacity, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number (such as a Social Security Number), symbol, or other particular assigned to the individual, such as a fingerprint, a voice print, or a photograph.

b. System of Records. Any group of records under the control of the RTC in its corporate capacity from which information is retrieved by the name of the individual or by some other identifying particular assigned to the individual. A System of Records can contain as few as a single record. This definition applies even if the System has not been formally approved. (This definition should not be confused with the term "System(s) of Record" which pertains to the status of particular electronic data systems as used by the Office of Systems Development and the Office of Corporate Information.)

c. System Manager. The senior RTC official responsible for the operation of a designated System of Records. (This definition should not be confused with the term "System Manager" as defined in the RTC System Development Life Cycle Manual.)

4. Objectives of the Act. The Privacy Act seeks a balance between the government's need to maintain, use, and disseminate information about individuals and an individual's right to be protected against unwarranted invasions of privacy stemming from the collection, maintenance, use, and disclosure of personal information by Federal agencies. The Privacy Act attempts to accomplish its objectives by:

a. Requiring agencies to follow special procedures prior to collecting, maintaining, or disseminating records.

b. Restricting disclosure of personally identifiable records maintained y agencies.

c. Granting individuals increased rights of access to records ertaining to themselves.

d. Granting individuals the right to seek amendment of records ertaining to themselves upon a showing that the records are not accurate, elevant, timely, or complete.

e. Granting individuals the right to know where, when, and under what ircumstances Privacy Act records have been released outside the RTC, except or disclosures in response to FOIA requests and to law enforcement agencies.

. Scope of the Act

a. The Privacy Act does:

(1) Permit access to and amendment of non-exempt, covered records United States citizens or aliens lawfully admitted for permanent residence. t does not apply to corporations, business organizations, or deceased rsons.)

(2) Apply to any RTC corporate records maintained in filing systems known as "Systems of Records." "System of Records" is a key term since the Privacy Act's operation revolves around the creation and existence of both paper and automated "Systems of Records."

(3) Impose responsibilities on RTC officers and employees and RTC contractors and their employees who are operating an RTC System of Records to accomplish an RTC corporate function.

b. The Privacy Act does not:

(1) Apply to uncirculated personal notes, papers, and records, such as memory refreshers, which are written and retained or discarded at the author's discretion and over which the RTC exercises no control or dominion. For a more complete discussion of the distinction between official records and personal papers, see RTC Circular 1210.8.

(2) Cover records held by conservatorships and receiverships. Such entities are not considered to be Federal agencies for the purposes of the Privacy Act.

6. Responsibilities

a. RTC's responsibilities under the Privacy Act are to:

(1) Maintain in its Systems of Records only such information necessary and relevant to a function which the RTC is required to perform either by statute, regulation, or by Executive Order of the President.

(2) Ensure that no records are maintained describing how an individual exercises rights guaranteed by the First Amendment of the Constitution.

(3) Supply a "Privacy Act Statement" to each individual from whom it collects personal information that will be maintained in a System of Records. That Statement informs the individual of the authority for the solicitation of information, whether disclosure of the information is mandatory or voluntary, the principal purposes for which the information will be used, the entities outside the RTC to which information in a System of Records may be disclosed, and the effects, if any, of not supplying all or part of the information requested. To the greatest extent practicable, information about an individual should be collected directly from the individual to whom the information pertains.

(4) Establish reasonable administrative, technical, and physical safeguards to ensure that records are disclosed only to those who are authorized to have access to the information in the records.

(5) Maintain all Privacy Act records which are used by the RTC in making any determination about any individual with such accuracy, relevance, timeliness and completeness as reasonably necessary to assure fairness to the

individual in the determination.

(6) Record, under appropriate circumstances, the date, nature and purpose of a disclosure of a record outside the RTC, and the name and address of the entity to which the record was disclosed. (This is commonly referred to as a "disclosure accounting.") Except for records released through the FOIA and those provided to law enforcement agencies, the RTC will, upon request, provide an individual with this information.

b. The Office of the Secretary is responsible for:

(1) Processing requests for access to and amendment of records. Such requests are processed by the FOIA/PA Branch except when the information sought is contained in a System of Records maintained by the RTC OIG. The OIG is responsible for processing Privacy Act requests for records under its jurisdiction. (The procedures for processing Privacy Act requests are described in detail in RTC Circular 1023.1.)

(2) Publishing regulations that establish procedures for individuals to obtain access to and amendment or correction of records on themselves that are in a System of Records. (The RTC's Privacy Act regulations are found at 12 C.F.R. Part 1616.)

(3) Preparing and publishing a public notice of the establishment, or revision, of a System of Records in the Federal Register.

(4) Providing guidance to RTC supervisors and employees concerning the implementation and application of the Privacy Act.

c. Except for OIG records, the Division of Legal Services is responsible for processing administrative appeals of decisions not to grant fully requests for access to or amendment of records.

d. Each RTC employee is responsible for:

(1) Ensuring that no record contained in a System of Records is disclosed to any person or entity outside the RTC without the prior written consent of the individual who is the subject of the record. However, disclosure may be made to people within the RTC and to entities outside the RTC without the prior consent of the individual when one or more of the exceptions to this prohibition discussed in paragraph 8 of this directive apply.

(2) Ensuring that no official files are maintained which are retrievable by name or other identifier unless a notice of the existence of the System of Records has been published in the Federal Register.

(3) Notifying the Office of the Secretary to initiate procedures for the establishment of a new System of Records, or the amendment of an existing System.

7. RTC's Systems of Records. The Privacy Act forbids the creation of any

System of Records by an agency unless the agency first publishes notice of the establishment of the System in the Federal Register. In addition to RTC's published Privacy Act System Notices, information filed in a current FDIC/RTC employee's Official Personnel Folder is covered by a System of Records (OPM/GOVT-1, General Personnel Records) established by the United States Office of Personnel Management (USOPM), but administered on behalf of USOPM by the RTC at its offices.

8. Conditions of Disclosure. An employee may not disclose any record, or any information in a record, contained in a System of Records to any other RTC employee or to any person, agency, or entity outside the RTC unless:

a. General exceptions

(1) Prior written consent for release of the information is obtained from the individual to whom the information pertains.

(2) An RTC employee or contractor has a need to know the information for the performance of assigned duties. The System Manager, or designee, of the record generally determines who should have access to it.

(3) The release of the information would not result in a clearly unwarranted invasion of personal privacy, and therefore the information is required to be released by the Freedom of Information Act.

(4) Information is released in response to a court order. (A subpoena not signed by a judge does NOT constitute a "court order" for the purposes of the Privacy Act.)

(5) Information is released under one of the routine uses published for the particular System of Records. (The Privacy Act defines a "routine use" as a disclosure which is compatible with the purpose for which the information was collected, e.g., releasing investigatory files to law enforcement agencies.)

(6) An emergency exists, when one's health or safety is at risk.

b. Specific exceptions. In addition, under specific circumstances, information may be disclosed:

(1) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity.

(2) To a recipient who has provided the agency with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable.

(3) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States, or his/her designee, to determine whether the

record has such value.

(4) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law. Release of information under this provision is only permitted if the head of the agency or instrumentality has made a written request to the RTC specifying the particular information desired and the law enforcement activity for which the record is sought.

(5) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee. (A request for records from an individual member of Congress is processed as a request submitted by any person.)

(6) To the Comptroller General, or any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office.

(7) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

9. Safeguards. Appropriate administrative, technical, and physical safeguards, such as locked file cabinets/room, computer passwords, etc., must be established to ensure that the records in every System of Records are protected from unauthorized alteration, disclosure, and/or use, and that their confidentiality is protected. This includes data stored or being processed in an automated data processing system or in a word processor.

Individual requests for Privacy Act records should NOT be granted if there is any uncertainty as to whether some of the requested material is exempt from disclosure. Except for records under the jurisdiction of the OIG, these requests should be forwarded to the Office of the Secretary for processing as soon as they are received.

10. Individual Access to Personal Records. Except for records that are exempt, the Privacy Act allows each individual to have access to records in a System of Records kept about him or her. This is especially important because many of the RTC's systems of records are about RTC employees. Employees are entitled to see and obtain copies of both their Official Personnel Folder (OPF) maintained for the USOPM by the RTC's Office of Human Resources Management, and any unofficial personnel records that may be maintained by an individual's Division or Office as long as the information is kept in a System of Records. (Unofficial personnel files contain personnel-related records in addition to those kept in an OPF.) Requests for access to Privacy Act records may be made informally by making an appointment to visit the RTC office which has the records, or formally by submitting a written request for records. A written request may be sent to the custodian of the record or to the Office of the Secretary, FOIA/PA Branch. If the costs of duplicating records in response to a request exceed $25.00, a fee may be charged for copies of records provided to a requester. (NOTE: Since Privacy Act requests are

considered to be personal matters, RTC property, including stationery, mailing envelopes and fax machines, may NOT be used to prepare and/or transmit such requests.)

a. Verification of Identity. Before being granted access in person to records in a System of Records, an individual may be required to provide proof of his or her identity. Such proof may be made from employee identification cards, driver's licenses, other licenses, or permits or passes used for routine identification purposes. Written requests must contain sufficient information to establish the identity of the requester, and in some instances a notarized statement attesting to the identity of the requester may be required.

b. Records Exempt from Disclosure. The following types of records may be exempt from disclosure to the individual who is the subject of the records:

(1) Material compiled in reasonable anticipation of a civil action or proceeding.

(2) Investigatory material compiled for either civil or criminal law enforcement purposes.

(3) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for RTC employment, to the extent that such disclosure would reveal the identity of a source who furnished information under an express promise of confidentiality.

(4) Testing or examination material used solely to determine or assess individual qualifications for appointment to the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

11. Amendment of Records

a. If, after obtaining access to his or her records, an individual believes that certain information contained in the record is inaccurate or not necessary or relevant to the record, the individual may seek to have that portion of the record amended or deleted. After receipt of such a request, the Secretary, with the advice of the System Manager, will determine whether to amend the record. If the amendment request is denied, either in whole or in part, the individual may administratively appeal the decision to the General Counsel, or designee, who will make a final administrative decision concerning the amendment request. If the General Counsel, or designee, declines to amend/delete the record in question, the individual may file a lawsuit in Federal court to seek review of the RTC's refusal to amend or delete information in the record. Prior to a lawsuit, the individual may prepare a statement of disagreement concerning the General Counsel's, or designee's, decision not to amend the record. That statement is submitted to the Office of the Secretary and is attached to the contested record. If a statement is submitted, the RTC may then attach a brief explanation of why it declined to amend the record in question.

b. The RTC must advise previous recipients of a record of any decision to amend or delete a record and it must provide them with the individual's statement disputing the decision not to amend or delete the record. The RTC may also provide a copy of its explanation of the decision not to amend a record. Additionally, if a record has been amended or has become the subject of a statement of disagreement, the RTC must notify all future recipients of the record of that fact.

12. Criminal and Civil Penalties. The Privacy Act also provides for criminal and civil penalties for noncompliance. Failure to properly comply with the Privacy Act could result in civil penalties of $1,000 per violation against the RTC, or in the case of willful violations, disciplinary action, up to termination of employment, and/or a criminal misdemeanor penalty of up to $5,000 against the responsible employee. (An example of an activity that could subject an employee to disciplinary action or criminal sanctions would be knowingly disclosing information in a record to anyone not legally entitled to the record.)

13. Contact. Except for records created by the OIG, the Office of the Secretary serves as the coordinator for the RTC's compliance with the Privacy Act. Any questions regarding the administration of the Privacy Act may be directed to Richard White, Privacy Act Attorney, in the FOIA/PA Branch at (703) 908-6137, or by fax at (703) 528-9614.

14. Effective Date. This directive is effective immediately.

(3) Judicial discretion

The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.

(r) Foreign investigations

The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 1818(v) of this title; and

(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.

(s) Prohibition on entering secrecy agreements and protective orders

The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.

(t) Agencies may share information without waiving privilege

(1) In general

A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

(A) any other covered agency, in any capacity; or

(B) any other agency of the Federal Government (as defined in section 6 of Title 18).

(2) Definitions

For purposes of this subsection:

(A) Covered agency

The term "covered agency" means any of the following:

(i) Any appropriate Federal banking agency.

(ii) The Resolution Trust Corporation.

(iii) The Farm Credit Administration.

(iv) The Farm Credit System Insurance Corporation.

(v) The National Credit Union Administration.

(B) Privilege

The term "privilege" includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

(3) Rule of construction

Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.

(u) Purchase rights of tenants

(1) Notice

Except as provided in paragraph (3), the Corporation may make available for sale a 1- to 4-family residence (including a manufactured home) to which the Corporation acquires title only after the Corporation has provided the household residing in the property notice (in writing and mailed to the property) of the availability of such property and the preference afforded such household under paragraph (2).

In selling such a property, the
offer made by the household resi

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such period (or expected by

(B) such offer is made du
making such property availa
the Corporation based on th

(C) the household making
applicable to purchasers of
credit requirements.

(3) Exceptions

Paragraphs (1) and (2) shall n

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(B) any eligible single fan
(c)(9)[4]; or

(C) any residence for whi
mortgagor under a mortgag
acquired title pursuant to d

(v) Preference for sales for homeless fa

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defined in section 1831q(p) of this t
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homeless families.

(w) Preferences for sales of certain con

(1) Authority

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purposes of the purchaser
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homeless persons (as such
homeless families.

(2) Definitions

For purposes of this subsecti

(A) Eligible commercial real p

The term "eligible comm
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discretion of the Corporatio
offices or other administrat
referred to in paragraph (1

Document 12

DIRECTIVE SYSTEM

Circular 1023.1
Philip Lindenmuth
703-908-6132
August 11, 1993
Co No 93-084

TO: Washington and Field Offices
Managing Agents and Field Site Managers

FROM: Dennis F. Geer
Vice President for Administration
and Corporate Relations

SUBJECT: Procedures for Processing Freedom of Information Act and Privacy Act Requests

1. Purpose. To provide guidance to RTC staff on processing requests submitted to the RTC for access to agency records pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, and access to and amendment or correction of records pursuant to the Privacy Act of 1974 (PA), 5 U.S.C. 552a. This directive provides guidance to RTC staff other than staff of the Office of Inspector General (OIG) which will receive independent OIG guidance regarding records created by the OIG.

2. Cancellation. RTC Circular 1023.1, "Procedures for Processing Freedom of Information Act and Privacy Act Requests," dated March 29, 1991, is hereby cancelled.

3. Index. An index is included at the end of this directive to assist users in locating pertinent information.

4. Scope

a. These procedures apply to FOIA requests and Privacy Act requests pertaining to RTC agency records.

b. These procedures do not apply to:

(1) FOIA and PA requests for records created by the OIG, which are addressed in 12 C.F.R. Part 1680, Subparts A and B, and covered by separate procedures.

(2) Requests to the Headquarters Reading Room (RR) or the Field Office Public Service Centers (PSC) for records routinely maintained at those RTC public reference facilities for public inspection at no charge or copying at a nominal charge.

(3) Disclosures of information by the National Sales Center, Field Office sales staff, and other personnel authorized to disclose information

during the regular course of performance of official duties. This exception includes official disclosures to news media representatives by employees of RTC's Office of Corporate Communications and their Field Office counterparts, to whom other RTC staff should refer media inquiries. Whenever those staff receive a request from the media for a record which is not routinely made available to the public, they inform the media representative that he or she may submit a FOIA request to the FOIA/PA Branch for the requested information. Also, employees of the RTC's Office of Governmental Relations and Field Office counterparts routinely provide information to Congress. The FOIA does not authorize agencies to withhold information requested by members of Congress for official purposes when they are serving as committee or subcommittee chairpersons or otherwise acting under the authority of a committee or subcommittee.

(4) Inquiries, complaints, and requests for thrift records from former thrift customers, employees, and other third parties regarding business transactions of and employment with the thrifts, which are handled by staff of RTC's Headquarters Ombudsman's Office and the Field Office Client Responsiveness Departments or Records Managers. (See RTC Circulars 1421.1 and 1020.5 when issued in early 1994.)

5. Relationship Between FOIA/PA Disclosure Procedures and Other RTC Routine Disclosure Activities

a. FOIA/PA Requests. The RTC's FOIA/PA programs implement laws enacted to provide public access to agency records under specific prescribed rights and requirements. All FOIA requests and most PA requests must be in writing and should be submitted to the RTC's FOIA/PA Branch, 1735 North Lynn Street, Rosslyn, VA 22209, telephone No. (703) 908-6132; fax No. (703) 528-9614.

A PA request by a current RTC employee may be made in person for access to the official personnel folder or similar personnel-type record on the employee, by a personal visit to the personnel office in which the record is maintained.

The FOIA/PA Branch does not maintain a collection of documents available for public visitors to inspect and obtain copies. Instead, the FOIA/PA Branch discloses records only upon receipt of a written FOIA or PA request. In order for RTC to provide copies of requested records to requesters, the FOIA/PA Branch generally transmits copies of a FOIA or PA request to the appropriate RTC offices maintaining the requested records. Those offices shall take appropriate processing actions. However, if RTC previously determined that the requested information will be made publicly available through RTC's public reference facilities or other sources, requesters may seek records directly from those sources rather than submit a FOIA request. The FOIA staff send requests pursuant to the FOIA for records available from RTC's public reference facilities to those facilities to respond directly to the requesters.

b. RTC Public Reference Facilities and Other Sources of Routine Disclosures of Information

(1) Where RTC determines there is public interest in routine

disclosure of certain information, such as lists of information on public purchases of thrifts (bid summaries) and thrift assets (asset sales reports as cited in RTC Circular 1020.4) and RTC contracts (see RTC Circular 1020.1), the RTC places such information into the collections of documents in RTC's public reference facilities (RR and PSCs) for public inspection and copying. Members of the public may visit, telephone, or write those facilities directly for copies of available records. Likewise, RTC authorizes customary disclosure of certain information to the public by certain RTC staff in the regular course of the performance of official duties (e.g., disclosure of appraisals--Circular 10100.17, sales brochures and other information related to thrift assets which are being marketed by the RTC and its contractors). In addition, certain information from thrift records is routinely disclosed to former thrift customers and employees or interested third parties by RTC's client responsiveness and records management program staffs upon request to those staffs (see RTC Circular 1020.5 when issued in early 1994).

(2) **A request directed to RTC's public reference facilities and other sources of information described in the preceding paragraph is not a FOIA request.**

(3) A request to the RR or to a PSC for records not available at those locations, to RTC staff maintaining information not authorized for customary disclosure, or to staff in the RTC client responsiveness or records management programs where identities of requesters cannot be verified or other difficult problems prevent routine processing, may be referred to the FOIA/PA Branch for consultation on appropriate action, including processing under FOIA procedures.

(4) Where records requested under the FOIA are or should be available at the RR or a PSC, FOIA staff will refer the request to the appropriate public reference facility and close the FOIA file. Copies of selected agency records released pursuant to the FOIA, as well as selected letters requesting agency records pursuant to the FOIA and the letters responding to those FOIA requests, also will be placed in the RR and the appropriate PSC when such materials are deemed to be of public interest. Periodically, lists of FOIA requests will be placed in the RR for public inspection.

6. FOIA Policy. It is the policy of the RTC to provide as much information as possible to the public. Consequently, the operating assumption in processing FOIA requests is that the RTC will disclose the requested information unless there is a legal requirement or a compelling reason for non-disclosure related to the potential negative impact of the disclosure of the records either on the government or third parties.

7. Responsibilities and Organization

a. Secretary. The Secretary of the RTC is responsible for the agency's **FOIA/PA program and has delegated authority to disclose and to deny access to agency records pursuant to the FOIA and PA and to delegate that authority. The Secretary will bring to RTC's Executive Committee proposed denials of FOIA requests for access to agency records that constitute "a major matter"** described in CEO Resolution No. 92-CEO-3, paragraph E. (The role of the FOIA Policy Committee, which was originally described in RTC Circular 1023.1 dated March 29, 1991, was succeeded by the RTC Executive Committee.)

b. Chief, FOIA/PA Branch. The Headquarters FOIA/PA Branch is under the direction of the Branch Chief who has responsibility for the following:

(1) Submitting to the Secretary and/or the Executive Committee for approval matters of proposed denials of FOIA requests for access to agency records where RTC staff recommends denial and it has been determined that, although there is no legal requirement, policy or precedent to deny, there is a legal basis for the proposed denial and the Chief believes that all or portions of the records should be withheld.

(2) Disclosing agency records or denying access to agency records pursuant to delegated authority from the Secretary of the RTC and in accordance with FOIA and PA exemptions and other related provisions, case law, official guidance from the Department of Justice and the Office of Management and Budget, and RTC's FOIA/PA regulations, policies, and procedures. Invoicing for billable costs arising under the FOIA and PA.

(3) Establishing and implementing agencywide policies and procedures for the processing of FOIA and PA requests and overseeing field FOIA and PA request processing activities.

(4) Advising agency management and staff on related general questions regarding disclosure of information.

(5) Preparing and amending FOIA and PA regulations and PA systems notices.

(6) Preparing and conducting FOIA and PA training.

(7) Preparing reports on FOIA and PA activities.

c. The General Counsel and the Associate General Counsel for Corporate Affairs in the Division of Legal Services (DLS). These DLS officials or designees have authority to make final decisions on administrative appeals of denials of initial FOIA and PA requests for RTC agency records. (See paragraph 14, below.)

d. Headquarters Chief Financial Officer, Senior Vice Presidents, Vice Presidents, and Assistant Vice Presidents. Each of these officials is responsible for the FOIA/PA program in his or her division or department. This responsibility includes designation of a FOIA contact, who is responsible for receiving assigned FOIA and PA requests from the FOIA/PA Branch and coordinating FOIA and PA request activities within his or her division or department area. The name of any newly designated FOIA Contact should be forwarded to the Chief, FOIA/PA Branch, to ensure proper coordination of request processing activities.

e. Vice Presidents, Field Offices. Each Field Office Vice President is responsible for the FOIA/PA program in his or her field office.

(1) In accordance with delegated authority as made on a case-by-case basis to each Field Office by the Secretary, the Field Office Vice President or designee may disclose or deny access to requested agency records for which the Field Office is responsible. Where the decision is to deny access to all or part of requested information, proposed responses and responsive information first must be sent by the Field Office FOIA Specialist to the FOIA/PA Branch for review, guidance and approval.

(2) Field Office Vice Presidents will ensure that the Field Office FOIA/PA program is staffed by a FOIA Specialist and office FOIA Contacts. These employees will coordinate FOIA/PA activities within the field and with the FOIA/PA Branch, in accordance with specific guidance provided by the FOIA/PA Branch when transmitting requests to offices for processing, and the policies and procedures in the Handbook for RTC FOIA Specialists and FOIA Contacts (copies are maintained by each PSC and FOIA Specialist).

f. RTC Staff. Each RTC employee to whom a FOIA or PA request is assigned, via the Control Record of Freedom of Information Act & Privacy Act Requests (RTC Form 1023/01) (Attachment A), must process the request in a timely, accurate, and complete manner, in accordance with applicable FOIA and PA provisions, RTC regulations at 12 C.F.R. Parts 1615 and 1616, and RTC policies, which are addressed in this directive. Specific guidance to RTC staff for processing an assigned request is provided on RTC Form 1023/01 by FOIA/PA Branch and in transmittals by the Field Office FOIA Specialist and FOIA Contact in assigning a request to staff. Policies and guidance also are contained in the Handbook for RTC FOIA Specialists and FOIA Contacts.

8. Definitions

a. Agency. Agency has the meaning given at 5 U.S.C. 551(1), 5 U.S.C. 552(f) of the FOIA, and 12 U.S.C. 1441a(b)(1)(B).

(1) RTC Corporate Capacity. The RTC is an agency for purposes of the FOIA and PA when acting in its corporate capacity.

(2) RTC Conservatorship and Receivership Capacities. As a legal matter, the RTC maintains that it is not an agency for purposes of the FOIA or PA when acting in its capacities as receiver or conservator.

b. Agency Records. Records created or maintained by the RTC and under control of the RTC in its corporate capacity and for corporate purposes at the time of its receipt of a FOIA request or PA request.

(1) Non-Agency Records of Thrifts and Contractors. Generally, records which are created or maintained by RTC in its conservatorship or receivership capacities or by thrifts placed into the RTC conservatorship and receivership programs are not agency records where RTC neither possesses nor controls the records in its corporate capacity. Such records are not accessible under the FOIA or PA because the FOIA and PA apply only to federal agency records. For example, records that are part of a conservatorship's

normal operating records or its completed transaction files generally are inaccessible under the FOIA or PA. Likewise, records in the possession and control of outside counsel and other contractors which were not created nor controlled by RTC are inaccessible under the FOIA or PA. (See Attachment B, "Procedures for Determining Access to RTC Records.)

(2) Accessible Records of Thrifts and Contractors. Access to certain conservatorship, receivership and contractor records is provided under the FOIA where (a) RTC presumes the records became agency records by being incorporated into RTC corporate files, or (b) RTC provides discretionary access upon a determination that access is in the public interest. (See Attachment B.) Also, access to certain thrift records under other procedures is provided by client responsiveness staff to resolve client inquiries and complaints and by records managers.

c. FOIA Request is a written request for access to agency records made pursuant to 5 U.S.C. 552(a)(3) of the FOIA and mailed, faxed or hand delivered to RTC. A FOIA request should be submitted directly to the FOIA/PA Branch. In the event a FOIA request is submitted to the RTC at the RR, a Field Office PSC or other RTC office, that office should immediately forward the request to the FOIA/PA Branch. The FOIA requires agencies to make disclosure determinations within 10 working days, or 20 working days in unusual circumstances. A FOIA request is not deemed received until it is received by the FOIA/PA Branch.

d. PA Request is a request from an individual pursuant to the PA, 5 U.S.C. 552a, for access to records maintained on the individual in the agency's PA systems of records, which are retrieved by the names or other personal identifiers of individuals. A proper PA request for access to records is processed under both PA and FOIA provisions (see paragraph 8.c, above). The PA also authorizes individuals to request amendment or correction of records maintained by an agency on the individuals (see paragraph 13.b.(6), below). These matters also are covered in RTC Circular 1031.1 which provides guidance on employee rights and responsibilities under the PA.

9. Policies and Procedures on Processing FOIA and PA Requests

a. FOIA and PA Requesters. The RTC's regulations at 12 C.F.R. Parts 1615 and 1616 provide notice to the public of FOIA and PA procedures, including fee schedules (Attachment C).

b. FOIA Specialists and FOIA Contacts. The Office of the Secretary issued the Handbook for RTC FOIA Specialists and FOIA Contacts to provide comprehensive guidance to RTC's FOIA/PA program staff.

c. RTC Staff. This directive and its attachments summarize for RTC staff pertinent procedures for processing FOIA and PA requests. Specific guidance on processing a particular FOIA or PA request is provided by the FOIA/PA Branch and FOIA Specialists upon assignment to and during processing of the request. For additional information, staff also may refer to the Handbook for RTC FOIA Specialists and FOIA Contacts, particularly Section C, copies of which are maintained by FOIA Specialists for distribution of excerpts to FOIA Contacts and staff as needed. In addition, RTC Circular 1031.1 provides guidance on employee rights and responsibilities under the PA.

10. Receiving, Assigning and Initially Processing FOIA and PA Requests for Access to Records

a. Receiving FOIA Requests and PA Requests Directly from the Public. A FOIA request or PA request will not be considered to have been officially received until it has been received by the FOIA/PA Branch.

(1) FOIA/PA Branch. The FOIA/PA Branch Initial Screening Unit (ISU) will date the request upon receipt; log the request into its request tracking system; create a request control record (Attachment A); send the requester an acknowledgment letter; create an official RTC request file; take needed initial processing actions to clarify any request that inadequately describes requested records and to resolve fee issues for any request that does not include an agreement to pay processing fees; complete processing action whenever a request can be responded to by means other than the FOIA or PA, such as referral to RTC's public reference facilities; and assign the request to appropriate Headquarters and/or Field Offices for processing.

(2) Headquarters Divisions or Departments. If staff in a Headquarters division or department receives a FOIA or a PA request directly from a member of the public, staff should immediately send that request to the division or department FOIA Contact, who will forward it to the FOIA/PA Branch. Staff should not send copies of responsive agency records with the request when it is forwarded to the FOIA/PA Branch, unless it covers only a few pages that can be easily located and can be disclosed because they contain no sensitive information.

(3) Field Offices. If staff in a Field Office receives a FOIA or a PA request directly from a member of the public, staff should immediately forward the request to the Field Office FOIA Specialist for review and subsequent fax transmittal to the FOIA/PA Branch, with the original forwarded by mail to the FOIA/PA Branch. The request should be accompanied by the name of a person who can supply information as to the appropriate offices that should search for responsive agency records, and whether the records contain sensitive information that RTC should not disclose. Staff should not send copies of responsive agency records with the request when it is forwarded to the Field Office FOIA Specialist, unless it covers only a few pages that can be located easily and can be disclosed because they contain no sensitive information.

(4) Managing Agents (MA) or Field Site Managers (FSM). If a MA or FSM receives directly from a member of the public a request for thrift records that specifically references the FOIA or PA, these procedures apply:

(a) Agency Records. If the records requested have become agency records because of RTC's activities in its corporate capacity as described in Attachment B, or if the MA or FSM is unsure whether the requested records are agency records, the MA or FSM should forward the request to the Field Office FOIA Specialist who in turn will coordinate with the FOIA/PA

Branch, as needed. The MA or FSM should provide known pertinent information about RTC corporate activities with regard to the requested records that would assist in the determining whether the requested records are agency or non-agency records.

(b) Non-agency Records. If the FOIA staff determines that the requested records are non-agency records as a categorical matter (e.g., because they are solely conservatorship records on transactions completed before the thrift was placed into the RTC conservatorship program and are still in the possession of the thrift), a request addressed to the thrift is not considered a FOIA or PA request, regardless of how the requester characterized it. The MA or other RTC staff will be advised to either deny or grant the request pursuant to normal banking procedures. If the request for information is denied, the requester is to be informed that the thrift is not an agency of the United States Government and, therefore, neither the FOIA nor PA applies.

b. Assigning and Initially Processing Requests. Requests are assigned by the FOIA/PA Branch to Headquarters and/or Field Offices which most likely will have custody of requested agency records. The FOIA/PA Branch distributes copies of the requests and accompanying control records (Attachment A) to the Headquarters FOIA Contacts and Field Office FOIA Specialists, who assign the requests to staff for processing under instructions provided with the requests.

(1) Headquarters Division or Department. Staff is to comply with required action in a timely, accurate, and complete manner, providing the required response to the FOIA Contact or promptly notifying the office FOIA Contact of processing problems that may delay or prevent processing of the request. Detailed instructions are provided at Attachment D, and a summary of FOIA and PA provisions is provided at Attachment E.

(2) Field Offices, MAs or FSMs. The field personnel assigned a request by the Field Office FOIA Specialist should promptly:

(a) Review the request and inform the Field Office FOIA Specialist of estimated fee information (see paragraph 12, below), or problems delaying or preventing processing of the request (see Attachment D), or

(b) Conduct a search for the requested agency records and either respond to the Field Office FOIA Specialist (e.g., provide responsive agency records, advise that no agency records could be located, advise where responsive agency records most likely would be located, etc.), or notify the field office FOIA Specialist of the reason for any delay. (Refer to Attachment D.)

c. Common Initial Processing Issues and Activities

(1) Request Assigned Incorrectly. If the RTC office or staff that originally was assigned a FOIA or PA request determines that another office or employee within the RTC or another agency has custody of all or part of the responsive agency records, the FOIA/PA Branch is to be contacted immediately

by telephone so the request can be reassigned, or, in the case of records in the possession of another agency, referred without delay. Where the request has been assigned to a Field Office or on-site conservatorship or receivership personnel, the Field Office FOIA Specialist should be notified of the incorrect assignment to in turn reassign the request and notify the FOIA/PA Branch, as needed.

(2) Requested Records Generated by Another Agency. If staff of the RTC office that originally was assigned the FOIA or PA request determines that another government agency has custody of all or part of the requested records, the staff should contact FOIA staff immediately by telephone so the FOIA/PA Branch can make a referral without delay. The office shall respond with regard to any portion of the request for those records in its custody. Because there is confusion on the part of the public as to which agency has responsibility for what records, the RTC, the Thrift Depositor Protection Oversight Board (TDPOB), Federal Deposit Insurance Corporation (FDIC) and Office of Thrift Supervision (OTS) established the policy of referring FOIA or PA requests to any other of these agencies deemed the appropriate agency to respond to a FOIA or PA request. (See paragraph 13.b.(5), below.)

(3) Requester Inadequately Describes Requested Records. The FOIA/PA Branch ISU seeks clarification of each FOIA and PA request which appears to inadequately describe requested records before transmitting the request to RTC staff for processing. However, if staff finds that an assigned request is so vague it is difficult to determine what agency records the requester is seeking, Headquarters staff should contact the FOIA/PA Branch and field staff should contact the Field Office FOIA Specialist before taking any further action. Where necessary, FOIA staff will contact the requester to clarify or reformulate the request.

(4) Verifying Identities of PA Requesters. The FOIA/PA Branch verifies identities of requesters for all PA requests submitted in writing. Staff maintaining subject records must verify identities of all requesters appearing in person to inspect records through two forms of personal identification, as described in 12 C.F.R. 1616.4(b).

(5) Request Seeks Copies of Contract Proposals. The FOIA/PA Branch processes requests for contract proposals and reviews requested proposals under procedures established by Executive Order 12,600 (see paragraph 13.a.(4), below). Upon receipt of a request for contract proposals, the FOIA/PA Branch ISU notifies the requester of those procedures and FOIA request processing fees. If the requester responds to that notice, staff is asked to provide the following records and information: (a) a copy of each requested proposal, including any best and final offer; (b) a copy of the related solicitation of services (SOS), if staff has not already sent a copy to the RR or PSC; (c) a copy of each subject contract, if it is not available at the RR or PSC; (d) total search time required to locate all subject records; and (e) any comments staff believes may assist the FOIA/PA Branch staff's review of the requested proposals. No further staff action is necessary since the FOIA/PA Branch completes all other necessary processing actions.

11. Searching for Agency Records

a. Searching for Agency Records: Agency Obligations

(1) The FOIA and the PA require that agency staff search for all agency records responsive to a request and, unless those agency records or portions of those agency records are protected under one or more of the FOIA and/or PA exemptions (as the case may be) or one of three FOIA exclusions, the information must be disclosed. The purpose for which the requester is seeking the agency records or whether the agency records ultimately will be disclosed or denied is immaterial to the staff's obligation to search for responsive agency records. However, the requester's intended use of requested records determines applicable fees charged for RTC's processing the request (Attachment C).

(2) The FOIA requires that a requester reasonably describe the agency records that are sought, and staff should make no assumptions about which records are being requested. (See paragraph 10.c.(3).) In searching for requested records, staff must conduct searches directed toward locating all requested records. However, staff is required to conduct reasonable searches, i.e., staff need only search those agency records systems and files where staff would expect to locate agency records responsive to FOIA and PA requests.

(3) The FOIA does not require agency staff to create agency records in response to FOIA requests, nor does it require agencies to disclose agency records in a particular format. Common sense dictates that disclosure of requested information should take the form that most efficiently and cost-effectively provides the maximum amount of disclosure for the least amount of staff effort. This includes creating extracts of information contained in voluminous records and/or providing information in a specifically requested format, if such format is one in which the RTC routinely utilizes information and the requester is willing to pay the applicable fees for obtaining the information in the requested format. (See paragraph 13.a.(2).)

(4) The FOIA does not require agency staff to go beyond the release of agency records and answer questions, such as giving an explanation of why a certain policy was implemented or what certain information actually means, or to manipulate data for the requester. Because the RTC's FOIA policy is pro-disclosure, staff should attempt to provide FOIA staff with answers to questions if this will not result in an undue burden. In addition, it often is helpful to provide explanations to requesters for otherwise confusing or misleading data in disclosed records to preclude misunderstanding and/or follow-up inquiries from requesters.

b. Searching for Conservatorship and Receivership Records. If FOIA staff determines that requested records are not agency records as a categorical matter, no search is required by the FOIA or PA because such records are not accessible under the FOIA or PA. However, if the RTC makes a determination to disclose such records, or certain information on the subject matter of such records under the FOIA or PA as a matter of public policy, a search must be conducted. (See paragraph 8.b and Attachment B.)

c. Forwarding Responsive Agency Records to the FOIA/PA Branch or Field Office FOIA Specialist

(1) All staff responses are to be provided to the office FOIA Contacts for Headquarters offices or FOIA Specialists in Field Offices. Staff should not prepare responses or draft responses to requesters. Staff must provide copies of all requested records except those already publicly available at RTC's public reference facilities (the RR or a PSC).

(2) Copies of responsive agency records must be forwarded to the office FOIA Contact (in the case of Headquarters, to divisions or departments) or the Field Office FOIA Specialists (in the case of Field Offices, to MAs and FSMs).

(3) Originals of responsive agency records are not to be forwarded under any circumstance, since these are to be retained or disposed of by the originating office in accordance with records management policies applicable to that office.

(4) Copies of all responsive records must be provided by staff, whether or not staff recommends that all or part of the records be disclosed or withheld. Where staff recommends that access to certain information be denied, staff must be prepared to justify the recommended denial (see paragraph 13.b.(3)).

12. Estimating and Recovering Fees. The PA allows agencies to recover only costs attributable to the duplication of disclosed records. The FOIA allows agencies to recover certain costs attributable to the search, review and duplication of agency records, depending upon which fee schedule category applies to a particular request. The present RTC fee schedule is at Attachment C.

a. Computing Fees

(1) The FOIA/PA Branch categorizes each request for fee purposes prior to assignment of the request to RTC staff and notes the requester category in section 1 of RTC Form 1023/01 (Attachment A). Under the FOIA, fees may be charged for applicable search time (time taken to search for responsive agency records regardless of whether responsive agency records are located), review time (time taken to determine the applicability of FOIA exemptions and processing the requested agency records), and duplication (number of pages actually disclosed to the requester; one inch equals 225 pages).

(2) The agency may not charge for time spent photocopying agency records or for pages duplicated as "work copies." However, the requester may be charged for the duplication of copies of agency records which the FOIA/PA Branch sends to a submitter pursuant to Executive Order (E.O.) 12,600, as well as the time it takes to prepare any correspondence sent to a submitter pursuant to E.O. 12,600. A copy of E.O. 12,600 is maintained in the Handbook for RTC FOIA Specialists and FOIA Contacts.

(3) If information subject to a FOIA request is located in a computer and the database or a portion of the database is merely printed, the computer time expended is to be considered duplication of agency records. The RTC cannot charge a requester duplication charges for both computer time for merely printing data and for photocopying the information for release. If a substantial amount of querying of the database is necessary in order to determine whether agency records exist, the time expended is considered search time.

b. Estimating Fees for Processing a Request

(1) Staff to whom a request is assigned for fee estimates must report to FOIA staff a reasonable fee estimate for processing the assigned request. Staff should not process the request and report actual processing activities when staff has been asked to provide only fee estimates.

(2) To report to FOIA staff a reasonable fee estimate for processing an assigned request, staff must: (a) identify the staff's salary grade, and (b) separately report the estimated number of hours, or quarter hours if less than an hour, for applicable search for and review of records plus duplication (see paragraph 12.a.(1)). Applicable fees depend upon the categorization of the request under the FOIA or PA fee schedule (Attachment C). The FOIA/PA Branch notifies staff of the fee categorization of each request in section 1 of RTC Form 1023/01 (Attachment A).

(3) Upon receipt of the staff's fee estimate, FOIA staff will calculate the dollar amount of estimated fees and notify the requester as necessary.

c. Contacting the Requester

(1) The FOIA/PA Branch ISU within the FOIA/PA Branch generally resolves fee issues prior to assignment of a FOIA request to RTC staff. However, if staff in a Headquarters division or department or Field Office estimates that the recoverable cost to search for the agency records, review the agency records, or duplicate the agency records will exceed $25.00 or exceed the amount the requester has agreed to pay in the request letter or subsequent letter to the FOIA/PA Branch, the appropriate FOIA staff [for Headquarters offices or departments it is the Headquarters FOIA/PA Branch; for Field Offices it is the Field Office FOIA Specialist] must be so informed so they can resolve fee issues with the requester before the staff undertakes further processing actions.

(2) The appropriate FOIA staff contacts a requester in writing to obtain a commitment to pay necessary fees, or an advance payment if estimated fees exceed $250.00. Until the requester supplies such a commitment or advance payment, RTC will not begin a search for or review of responsive agency records.

(3) While the estimate of costs by a division or department should be as accurate as possible and separately broken down into search time, review time and duplication amounts, this estimate does not establish a ceiling which

will limit the agency's reimbursement. In some cases, a requester may even be asked to make a commitment to pay for the cost of making a more accurate estimate of the true costs.

d. Invoicing the Requester

(1) The FOIA/PA Branch prepares all fee invoices. The FOIA/PA Branch does not prepare an invoice if the total costs are less than $25.00. However, the FOIA/PA Branch can aggregate multiple requests from the same requester which are similar in nature and invoice the requester for the total applicable costs.

(2) An invoice is based on the cumulative amount of applicable time it took all Headquarters and Field Office divisions or departments to search for and review the agency records and the duplication costs of disclosed agency records. Item 5 of the Control Record (Attachment A) or a similar calculation, must be completed by the responding Headquarters or Field Office to indicate the amount of time it took to search for responsive agency records and to review those agency records for applicable exemptions, or the amount of computer time it took to produce the agency records.

e. Waiving or Reducing Fees. When a requester requests a waiver or reduction of fees, the FOIA/PA Branch makes a determination on the fee issue prior to processing the request. To assist its determination, the FOIA/PA Branch will ask that staff of the division or office maintaining requested records notify the appropriate FOIA staff of the expected cost of applicable search, review, and duplication of the records and any sensitivity as to disclosure of the information subject to the request.

13. Processing Responsive Records and Responding to Requests

a. Processing Requested Agency Records

(1) Segregating Releasable Agency Records. Generally, the FOIA requires that agencies attempt to maximize the disclosure of nonexempt material by segregating and disclosing nonexempt information in agency records that contain some exempt information. Staff must identify for FOIA staff those portions of requested agency records that contain sensitive information. If staff recommends nondisclosure of certain information in requested records, the staff must inform FOIA staff of the harm that would be caused by disclosure, as described in paragraph 13.b.(3), below.

(2) Disclosing Agency Records Pursuant to a Particular Format. The FOIA does not require the agency to disclose the agency records in the format that the requester specifies, only that nonexempt agency records are made available. Many requesters will ask that the information be disclosed in a specific computer format. If it is more convenient to disclose the information in a specified format, or it is no extra burden to do so, then such special requests may be granted. Requesters will be advised of any additional costs they will incur in such instances. However, if disclosing the information in a special format results in an undue burden, then the disclosure should be made in whatever format is most convenient to the RTC.

(See paragraph 11.a.(3), above.) The RTC is under no obligation to create mailing labels for the requesters.

(3) Disclosing Exempt Agency Records as a Matter of Discretion. Although requested agency records can be withheld, in whole or in part, pursuant to a FOIA exemption, the FOIA permits an agency to make a discretionary disclosure of requested records that fall under certain FOIA exemptions. The RTC's pro-disclosure FOIA policy (paragraph 6) is taken into consideration when making such determinations. If staff in a Headquarters or Field Office believes that the RTC should make a discretionary disclosure of requested agency records, staff should provide a recommendation for such action when forwarding the agency records to the appropriate FOIA staff.

(4) Processing Commercial Information

(a) Requested third-party commercial information which arguably may be exempt from disclosure will be handled by the FOIA/PA Branch, according to the procedures established under E.O. 12,600. Under these procedures, if an agency is considering disclosing commercial information which may be withholdable under FOIA Exemption 4 (if disclosure could reasonably be expected to cause substantial competitive harm), the agency is required to notify the submitter of the existence of the FOIA request, to allow the submitter the opportunity to comment on whether the information should be released, and to consider the submitter's input on whether to continue to withhold the information. However, the agency must ultimately make an independent determination of the status of the information.

(b) If staff in a Headquarters or Field Office believes that the agency records requested under the FOIA may be subject to these procedures, the appropriate FOIA staff must be so informed. The FOIA/PA Branch handles all correspondence and makes all determinations related to these procedures. Copies of the responsive agency records should not be forwarded to the FOIA staff without prior consultation with the FOIA staff because prior notification to requesters of estimated fees may be necessary.

b. Granting or Denying a FOIA or PA Request

(1) Headquarters Divisions or Offices. RTC staff must provide copies of responsive records to the office FOIA Contact who will forward them to the FOIA/PA Branch. The disclosure or denial of agency records will be made by the FOIA/PA Branch, accompanied, if necessary, by an invoice to pay for appropriate incurred fees.

(2) Field Offices or Agency Records Originating in a Conservatorship or Receivership. The Field Office FOIA Specialist receives responsive records from staff and prepares responses for signature by the Field Office Vice President or designee to disclose the agency records directly to the requester, or to deny access to the records after Field Office coordination with the FOIA/PA Branch, in accordance with delegated authority by the Secretary and guidance in the Handbook for RTC FOIA Specialists and FOIA Contacts.

(3) Justifying Denials. The RTC has established disclosure policies on numerous types of records that have been requested previously pursuant to FOIA requests. Whenever RTC staff receives a FOIA request for which the staff recommends withholding records that fall within the types of records on which previous disclosure policies have been established, staff is only expected to identify the sensitive information within requested records and recommend against its disclosure; staff is not required to prepare any detailed justification for the recommended denial.

However, whenever RTC staff recommends denial of access to all or part of any requested agency records for which no previous disclosure determinations have been made, the staff must be prepared to fully explain to the FOIA/PA Branch the harm that could result from disclosure of the records. Agencies must fully disclose any requested agency records unless the records fall under one or more of the nine FOIA exemptions or three exclusions (5 U.S.C. 552(b); 12 C.F.R. 1615.4(d)) or the PA exemptions and provisions for medical records and denial of information compiled in anticipation of litigation (5 U.S.C. 552a(d)(5), (f)(3) and (k); 12 C.F.R. 1616.5 and 1616.14). (The types of information that RTC may withhold include proprietary, predecisional, personal and investigative information; see Attachments D and E.) Generally, the staff's denial recommendation and explanation must be in writing. However, the staff's explanation need not be made with references to FOIA exemptions, nor should it be a legal memorandum. [Under no circumstances should a written legal opinion from outside counsel as to the applicability of FOIA exemptions be solicited by staff without prior permission of the Chief, Office of Special Projects, Department of Corporate Affairs, DLS. Staff may solicit an outside counsel's opinion as to the harm that would result from the disclosure of records related to a matter in which the outside counsel participated.] If portions of the records are recommended to be withheld, those portions should be noted by referencing the portions in a cover memorandum or by bracketing the information.

(4) Retaining Copies of Denied Records. Copies of all agency records for which a denial of a request for access has been made must be kept by the RTC for a period of at least 6 years after that denial to facilitate the adjudication of appeals and law suits initiated pursuant to the FOIA or PA. If the request is for agency records that are on a database and access is denied, copies of the denied agency records generally should be printed or duplicated electronically for retention for 6 years after the denial. However, if this duplication would be significantly expensive or otherwise burdensome, staff should consult with appropriate FOIA staff for a determination on appropriate retention procedures.

(5) Referring Records to Other Agencies. If the RTC has custody of records originating in another Federal agency which are responsive to a FOIA request received by the RTC, those records must be referred by FOIA staff to the originating agency for final disposition, or consultation with that agency as to the disposition of its information; the RTC neither discloses records nor denies access to agency records subject to a FOIA request or a PA request without consultation with the originating agency. (See paragraph 10.c.(2).)

(6) Requests for Amendment or Correction of PA Records. Upon

receipt of a request for amendment or correction of records pursuant to RTC's PA regulations, 12 C.F.R. 1616.7, the PA systems manager maintaining the records and other appropriate staff will be consulted regarding a determination on appropriate action. If a determination is made to grant a request, the FOIA/PA Branch will coordinate with the PA system manager to ensure that appropriate changes are made to the subject records. Where a determination is made to deny the request, the requester will be notified of the right to appeal the decision. See RTC Circular 1031.1 for additional guidance on rights and responsibilities of employees under the PA.

14. Processing Appeals of Agency Denials

a. Designated officials of the DLS (see paragraph 7.c, above) make final decisions on administrative appeals under the FOIA and PA. Appeals may be submitted by FOIA requesters regarding partial or total denials of FOIA requests for agency records, denials of requests for waiver or reduction of FOIA fees, responses that agency records do not exist or could not be located, and instances when the RTC fails to respond to a FOIA request within the statutory time limits. Appeals may be submitted by PA requesters from partial or total denials of PA requests for access to agency records or amendment of agency records on themselves. The DLS also will permit appeals regarding information deleted from documents maintained in an RTC public reference facility for which a FOIA exemption has been claimed. The RTC's FOIA and PA regulations notify the public of appeal rights and procedures for filing appeals. While processing an appeal, staff of the DLS will coordinate with appropriate FOIA and other RTC staff to review copies of the subject records, denial justifications, documentation on staff's search for requested records when the adequacy of the scope of the staff's search has been challenged, and other pertinent information on the administrative processing of the initial request and to discuss appropriate resolution of the appeal.

b. The General Counsel or designee notifies each appellant in writing of the determination to grant or deny the appeal.

(1) In cases where appeals are denied, the General Counsel or designee will notify the appellant of the reasons for the denial and the right of the appellant to further administrative action or judicial review where applicable. A copy of this notification is provided to the FOIA/PA Branch. Where the appellant sues RTC, affidavits from staff regarding denials and searches may be required.

(2) The General Counsel will grant an appeal and disclose agency records in whole or in part where the General Counsel or designee determines that the original withholding was proper but that circumstances have changed or a discretionary disclosure of the agency record is in the best interest of the RTC, after consultation with the FOIA/PA Branch and the division or office from which the agency record originates.

15. Contacts. If the Headquarters FOIA/PA Branch must be consulted on any general issue or policy matter relating to FOIA/PA functions, contact Philip Lindenmuth, Chief, FOIA/PA Branch, (703) 908-6132. Questions concerning a specific request which has been distributed to a Headquarters division or

department should be directed to the Headquarters FOIA/PA Branch staff person identified on the control record that accompanied the request. Questions concerning a specific request which has been distributed to a Field Office should first be directed to the Field Office FOIA Specialist who will in turn consult with the Headquarters FOIA/PA Branch, as appropriate. A list of Headquarters and Field Office FOIA staff is provided at Attachment F. Questions regarding this circular revision may be directed to its author, Linda L. Robinson, Counsel and Special Assistant to the Office of the Secretary, (202) 416-7285.

16. References. The following directives are referred to in this circular:

a. RTC Circular 1020.1, "Procedures for the Public Release of Contract-Related Documents," dated November 26, 1990.

b. RTC Circular 1020.4, "Disclosure of Asset-Related Sales Information," dated November 14, 1991.

c. RTC Circular 1020.5, "Procedures Related to Searches for Institution Records to Resolve RTC Client Inquiries and Complaints," to be issued in early 1994.

d. RTC Circular 1031.1, "The Privacy Act of 1974: Employee Rights and Responsibilities," dated August 13, 1993.

e. RTC Circular 1421.1, "Client Responsiveness Program," dated September 25, 1992.

f. RTC Circular 10100.17, "Appraisal Disclosure Policy," dated June 21, 1991.

17. Effective Date. This directive is effective immediately.

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the day on which the bill was sent to the requester. Once a fee payment has been received by the RTC, even if not processed, the accrual of interest shall be stayed. Interest charges shall be assessed at the rate prescribed in 31 U.S.C. 3717 and shall accrue from the date of billing. The RTC shall follow the provisions of 31 U.S.C. 3716, 3718 and 3719 pertaining to the use of administrative offset, collection agencies and consumer reporting agencies.

(i) *Other statutes specifically providing for fees.* (1) The fee schedule of this section does not apply with respect to the charging of fees under a statute specifically providing for setting the level of fees for particular types of records—i.e., any statute that specifically requires a government entity such as the Government Printing Office of the National Technical Information Service, to set and collect fees for particular types of records to:

(*i*) Serve both the general public and private sector organizations by conveniently making available government information;

(*ii*) Ensure that groups and individuals pay the cost of publications and other services that are for their special use so that these costs are not borne by the general taxpaying public;

(*iii*) Operate an information-dissemination activity on a self-sustaining basis to the maximum extent possible; or

(*iv*) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information.

(2) Where records responsive to requests are maintained for distribution by agencies operating statutorily based fee schedule programs, the RTC shall inform requesters of the steps necessary to obtain records from those sources.

(j) *Charges for other services and materials.* Apart from the other provisions of this section, where the RTC elects, as a matter of administrative discretion, to comply with a request for a special service or materials, such as certifying that records are true copies or sending them by other than ordinary mail, the actual direct costs of providing the service or materials shall be charged.

§ 1615.10 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which the person is not entitled under 5 U.S.C. 552.

APPENDIX A TO PART 1615—PUBLIC INFORMATION CENTERS ADDRESS LIST

The addresses of the Washington, DC Public Reading Room and field Public Service Centers are:

RTC Public Reading Room, 801 17th Street, NW., First Floor, Washington, DC (202-416-6940)

Public Service Center, 245 Peachtree Center Avenue, NE, suite 1400, Atlanta, GA 30303, (404) 225-5069;

Public Service Center, 7400 W. 110th Street, Overland Park, KS 66210, (913) 344-8500;

Public Service Center, 3500 Maple Avenue, Dallas, TX 75219-3935, (214) 443-4860;

Public Service Center, 1225 17th Street, suite 3085, Denver, CO 80202, (303) 291-5829;

Public Service Center, 4000 MacArthur Boulevard, 4th Floor, West Tower, Newport Beach, CA 92660-2516, (800) 876-2690;

Public Service Center, 1000 Adams Avenue, Norristown, PA 19403, (215) 631-3715.

PART 1616—PRIVACY ACT REGULATIONS

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1616.2 Definitions.
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APPENDIX A—RTC FIELD OFFICES

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 57 FR 43608, Sept. 22, 1992, unless otherwise noted.

§ 1616.1 Purpose and scope.

This regulation sets forth the basic policies of the Resolution Trust Corporation (RTC or Corporation), with the exception of the Office of Inspector General of the RTC, that implement the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) regarding the protection of the privacy of individuals on whom the Corporation maintains information which is retrieved by reference to an individual's name or an identifying particular assigned to the individual. This regulation also sets forth the procedures by which an individual may seek access under the Privacy Act to records pertaining to him/her, may request amendment of such records, or may seek an accounting of disclosures of such records maintained by the Corporation.

§ 1616.2 Definitions.

For the purposes of this part:

(a) *Corporation* means the Resolution Trust Corporation operating in its Corporate capacity.

(b) *Individual* means a natural person who is either a citizen of the United States of America or an alien lawfully admitted for permanent residence.

(c) *Maintain* includes maintain, collect, use, disseminate, or control.

(d) *Record* means any item, collection or grouping of information about an individual that is maintained by the RTC in its corporate capacity and contains his/her name, or an identifying number, symbol, or other identifying particular assigned to the individual.

(e) *System of records* means a group of any records under the control of the Corporation from which information is retrieved by the name of the individual or some identifying number, symbol or other identifying particular assigned to the individual.

(f) *Designated system of records* means a system of records which has been listed and summarized in the FEDERAL REGISTER pursuant to the requirements of 5 U.S.C. 552a(e).

(g) *Routine use* means, with respect to disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was created.

(h) *Amend* and *amendment* mean any correction of, addition to or deletion from a record.

(i) *System manager* means the agency official responsible for a designated system of records, as denominated in the FEDERAL REGISTER publication of "Systems of Records Maintained by the Resolution Trust Corporation."

§ 1616.3 Procedures for requests pertaining to individual records in a system of records.

(a) Any present or former employee of the Federal Deposit Insurance Corporation (FDIC) who is working for or has worked for the RTC and who is seeking access to his/her official personnel folder, or other U.S. Office of Personnel Management governmentwide personnel-type record, including compensation, training, medical information, time and attendance and performance, maintained by the RTC in Corporation offices should submit his/her request in such a manner as prescribed by the U.S. Office of Personnel Management in part 297 of its rules and regulations (5 CFR 297.101-501). Such requests should be submitted to the Office of the Secretary, RTC, FOIA/PA Branch, International Place, 1735 North Lynn Street, Rosslyn, VA 22209. An FDIC employee who is presently working for the RTC may also gain access to his/her unofficial personnel folder, and other personnel-type record, by visiting, either in person or with an authorized representative, the RTC Corporate office in which the folder is maintained.

(b) Written requests by individuals for access to records pertaining to them, other than official personnel folders, and maintained within one of the Corporation's designated system of records should be submitted to the Office of the Secretary, FOIA/PA Branch, RTC, International Place, 1735 North Lynn Street, Rosslyn, VA

22209. Each such request should contain a reasonable description of the record(s) sought, identify the system or systems in which such records may be contained, and any additional identifying information, as specified in the Corporation's FEDERAL REGISTER "Notice of Systems of Records" for that particular system, copies of which are available upon request for the FOIA/PA Branch, Office of the Secretary.

§ 1614.4 Times, places and requirements for identification of individuals making requests.

(a) Individuals may request access to records pertaining to themselves as provided in § 1616.3 of this part by submitting a written request by mail or in person to the office in which the records are maintained or the Office of the Secretary, FOIA/PA Branch, RTC, International Place, 1735 North Lynn Street, Rosslyn, VA 22209. Before access to records is granted, pursuant to this part, reasonable identification, as specified in § 1616.4(b), of the person making the request is required to ensure that information is given and records are disclosed only to the proper individual.

(b) Employees appearing in person at RTC offices seeking access to or amendment of personnel records pertaining to themselves shall present two forms of reasonable identification, such as employment identification cards, driver's licenses, passports, or credit cards. One piece of identification shall contain the individual's photograph and signature.

(c) Individuals submitting written requests seeking access to or amendment of records pertaining to themselves shall include copies of two forms of identification which contain the signatures of the individuals. Except for records that must be publicly disclosed pursuant to the Freedom of Information Act (5 U.S.C. 552), where the Corporation determines it to be necessary for the individual's protection, a certification of a duly commissioned notary public, of any state or territory, attesting to the requesting individual's identity may be required before a written request seeking access to or amendment of a record will be honored. Identification, as described above, will be required of any individuals visiting RTC offices to inspect records after submission of written requests.

§ 1616.5 Disclosure of requested information to individuals.

(a) Except to the extent that Corporation records in a system of records pertaining to an individual:

(1) Are exempt from disclosure under § 1616.14 of this part; or

(2) May require special procedures for medical records under § 1616.6 of this part; or

(3) Were compiled in reasonable anticipation of a civil action or proceeding, the Corporation will make such records available upon request for purposes of inspection and copying by the individual about whom the information is maintained or, upon the individual's request and written authorization, by another person of the individual's own choosing (after proper identity verification as provided in § 1616.4 of this part).

(b) The Secretary, or designee, will acknowledge receipt of a request submitted under this rule within ten (10) working days, and notify, in writing, the individual making a request, whenever practicable within ten business days following receipt of the request, whether any specified, designated system of records maintained by the Corporation contains a record pertaining to the individual. Where such a record does exist, the Secretary, or designee, with the advice of the System Manager, will inform the individual of the decision whether to grant or deny, in whole or in part, the request for access. In the event existing records are determined not to be disclosable, the notification will inform the individual of the reason(s) for which disclosure will not be made and will provide a description of the individual's right to appeal the denial, as more fully set forth in § 1616.9 of this part.

(c) Individuals will be granted access to records disclosable under this part 1616 as is practicable. The Secretary, or designee, will give written notification of a reasonable period within which individuals may inspect disclosable records pertaining to themselves at the Office of the Secretary (FOIA/PA Branch) or the appropriate Headquarters, or field offices during normal business hours. Alternatively, the Corporation may mail copies of requested records to the individual. Fees for copying such records will be assessed as provided in § 1616.12 of this part.

§ 1616.6 Special procedures for medical records.

Medical records in a system of records shall be disclosed on request to individuals to whom they pertain, except, if in the judgment of the Corporation, the transmission of the medical information directly to the requesting individual could have an adverse effect upon such individual. In the event medical information is withheld from a requesting individual because of any possible adverse affect such information may have upon the individual, the Corporation shall transmit such information to a licensed medical doctor named by the requesting individual.

§ 1616.7 Requests for amendment of records.

The Corporation will maintain all records is uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. An individual may request that the Corporation amend any portion of a record pertaining to that individual which the Corporation maintains in a designated system of records. Such a request should be submitted in writing to the Office of the Secretary, FOIA/PA Branch, RTC, International Place, 1735 North Lynn Street, Rosslyn, VA 22209, and should contain the individual's reason for requesting the amendment and a description of the record (including the name of the appropriate designated system of records) sufficient to enable the Corporation to identify the particular record or portion thereof with respect to which amendment is sought. If an individual has a copy of the record he/she wishes to have amended, it should be attached to the request for amendment and the specific portion of the record sought to be amended should be clearly identified. The individual making the request may be required to provide the information specified in § 1616.4 of this part to permit verification of the identity of the individual making the request for amendment.

§ 1616.8 Agency reviews of requests for amendment of records.

(a) Requests by individuals for the amendment of records will be acknowledged by the Secretary, or designee, within ten (10) business days following receipt of such requests and referred to the System Manager of the system of records in which the record is contained for an analysis of the request to amend. Promptly thereafter, the Secretary, or designee, with the advice of the System manger, will notify the individual of the decision to grant or deny the request to amend. If the request to amend is granted in whole or in part, the Secretary, or designee, will effect the appropriate amendment.

(b) If the Secretary, or designee, denies a request to amend a record, the notification of such denial shall contain the reason(s) for the denial, a description of the individual's right to appeal the denial as more fully set forth in § 1616.9 of this part, and the address of the Corporation officer to whom the appeal should be sent.

§ 1616.9 Appeals of adverse initial agency determinations of access or amendment of records and Statements of Disagreement.

(a) For RTC records contained within a system of records, the initial denial of an individual's request for access to or amendment of a record pertaining to him/her may be appealed to the RTC's General Counsel within 30 business days following receipt of notification of the denial. Such appeals should be mailed to the Office of the Secretary, FOIA/PA Branch, RTC, International Place, 1735 North Lynn Street, Rosslyn, VA 22209, and contain all the information specified for requests for access in § 1616.3 of this part or for initial requests to amend in § 1616.7 of this part, as well as any other additional information the individual deems relevant for the consideration by the General Counsel, or designee, of the appeal. Both the envelope and the appeal letter should have written on them "Privacy Act Appeal." The appeal letter should also enclose a copy of the initial denial letter.

(b) The General Counsel, or designee, will normally make a final determination with respect to an appeal made under this part within 30 business days following receipt of the appeal by the Office of the Secretary. The General Counsel, or designee may, however, extend this 30-day time period for good cause shown. When such an extension is required, the individual making the appeal will be notified of the reason for the extension and the expected date upon which a final decision will be given.

(c) If the General Counsel, or designee, affirms the initial denial of a request for access or amendment, he/she will inform the individual affected by the decision, the reason(s) therefore and the right of judicial review of the decision. With respect to a decision to sustain the initial refusal to amend a record, the General Counsel, or designee, will also inform the individual of the right to submit a Statement of Disagreement under paragraph (d) of this section.

(d) Upon receipt of a determination to affirm the initial denial of a request to amend a record, the individual may submit to the Corporation a concise statement (Statement of Disagreement) setting forth his or her reasons for disagreeing with the Corporation's determination not to amend. Such a Statement of Disagreement will be attached to the record which was the subject of the request to amend. The General Counsel, or designee may, if deemed appropriate, prepare a concise statement (Statement of Explanation) of the reason(s) why the requested amendment was not made. Any RTC Statement of Explanation will be included in the system of records in the same manner as the Statement of Disagreement. A copy of the Statement of Explanation and the notation of the dispute as marked on the original record will be provided to the individual who requested an amendment of the record.

(e) When a record has been amended or when a Statement of Disagreement has been filed, the Secretary, or designee, will provide all prior recipients of the affected record, whose identities may be determined pursuant to the disclosure accountings required by the Privacy Act (5 U.S.C. 552a(c)) or any other accounting previously made, a copy of the amended or corrected record or the Statement of Disagreement. Any disclosure of disputed information occurring after a Statement of Disagreement has been filed will clearly identify the specific information disputed and be accompanied by a copy of the Statement of Disagreement and a copy of any RTC Statement of Explanation.

§ 1616.10 Preservation of records.

The Corporation will preserve all correspondence relating to the written requests it receives under this part, and all records processed pursuant to such requests, in accordance with the records retention provisions of General Records Schedule 14, Informational Services Records. Under no circumstances will records be destroyed while they are subject to a pending request for access, amendment, appeal, or lawsuit pursuant to the Privacy Act.

1616.11 Disclosure of a record to a person other than the individual to whom the record pertains.

(a) Except as provided in paragraph (b) of this section, the Corporation will not disclose any record contained in a designated system of records to any person or agency except without the prior written consent of the individual to whom the record pertains.

(b) The restrictions on disclosure in paragraph (a) of this section do not apply to any disclosures:

(1) To those officers and employees of the Corporation who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use, as defined in § 1616.2(g) of this part, listed with respect to a designated system of records

and described in FEDERAL REGISTER notice of the system;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the Corporation with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States, or designee, to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Corporation specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure, notification is transmitted to the last known address of the individual to whom the record pertains;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of his/her authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction; or

(12) To a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(c) Any Statement of Disagreement with the Corporation's determination not to amend a record, filed with the Corporation by an individual pursuant to § 1616.9(d) of this part, will be included in the disclosure of the record under authority of paragraph (b) of this section. The Corporation may, in its discretion, also include a copy of the Corporation's Statement of Explanation.

(d) The Corporation, with respect to each system of records under its control shall:

(1) Except for disclosures made under paragraphs (b)(1) or (b)(2) of this section, keep an accurate accounting of:

(i) The date, nature, and purpose of each disclosure of a record to any person or to another agency made under paragraph (b) of this section; and

(ii) The name and address of the person or agency to whom the disclosure is made; and

(2) retain the accounting made under paragraph (d)(1) of this section for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under paragraph (b)(7) of this section, make the accounting made under paragraph (d)(1) of this section available to the individual named in the record at his/her request; and

(4) inform any person or other agency about any correction or Statement of Dispute made by an individual in accordance with § 1616.9(d) of this part, of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

§ 1616.12 Fees.

The Corporation, upon a request for records disclosable pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), shall charge a fee of $0.20 per page for duplicating, except as follows:

(a) If the Corporation determines that it can grant access to a record only by providing a copy of the record, no fee will be charged for providing the first copy of the record or any portion thereof; and

(b) Whenever the aggregate fees computed under this section do not exceed $25.00 for any one request, the fee will be deemed waived by the Corporation.

§ 1616.13 Penalties.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the RTC under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

§ 1616.14 Exemptions.

The following information is exempt from disclosure: (a) Investigatory material compiled for law enforcement purposes is exempt from §§ 1616.3 through 1616.9 and § 1616.11(d)(3) of this part, *provided, however*, that if any individual is denied any right, privilege, or benefit to which he/she would otherwise be entitled under Federal law, or for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be disclosed to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence;

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under an express promise that the identity of the source would be held in confidence, is exempt from §§ 1616.3 through 1616.9 and § 1616.11(d)(3) of this part; and

(c) Testing or examination material used solely to determine or assess individual qualifications for appointment or promotion in the Corporation's service, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation, or examination process is exempt from §§ 1616.3 through 1616.9 and § 1616.11(d)(3) of this part.

APPENDIX A—RTC/FIELD OFFICES

1. Atlanta Office, 100 Colony Square Building 100, suite 2300, Atlanta, GA. 30361, 1-800-628-4362; (404) 881-4840.

2. California Office, 4000 MacArthur Boulevard, Newport Beach, CA. 92660, 1-800-283-9288; (714) 631-0582.

3. Dallas Office, 3500 Maple Avenue, Dallas, TX. 75219, (214) 443-2300.

4. Denver Office, 1515 Arapahoe Street, Tower 3, suite 800, Denver, CO. 80202, 1-800-542-6135; (303) 556-6500.

5. Kansas Office, Board of Trade Building II, 4900 Main Street, Kansas City, MO. 64112, 1-800-365-3342; (816) 531-2212.

6. Valley Forge Office, 1000 Adams Avenue, Norristown, PA. 19403, (215) 650-8500.

7. Minneapolis Office, 3400 Yankee Drive, 4th Floor, Eagan, MN. 55122,, 1-800-873-5815; (612) 683-4400.

8. Phoenix Office, 2910 North 44th Street, Phoenix, AZ. 85018, 1-800-937-7782; (602) 224-1796.

9. San Antonio, 10100 Reunion Place, Suite 25, San Antonio, TX. 78216, (512) 524-4700.

10. Baton Rouge Office, 100 St. James Street, Suite H, Baton Rouge, LA. 70802, (504) 339-1000.

11. Chicago Office, 25 Northwest Point Boulevard, Elk Grove Village, IL. 60007, 1-800-284-6197; (708) 806-7750.

12. Houston Office, 2223 West Loop South, Houston, TX. 77027, (713) 888-2700.

13. Somerset Office, 300 Davidson Avenue, Somerset, NJ. 08873, 1-800-542-0435; (908) 805-4000.

14. Tampa Office, 4200 West Cypress Street, Tampa, FL., 33607, 1-800-283-1241; (813) 870-7000.

15. Tulsa Office, 321 South Boston, Tulsa, OK. 74103, 1-800-456-5382; (918) 587-7600.

PART 1617—MINORITY AND WOMEN OUTREACH AND CONTRACTING PROGRAM

Subpart A—General Provisions

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

MEMORANDUM TO: Kelly Cordes
Clerk
United States Senate

FROM: Peter E. Knight
Director of Governmental Relations

DATE: July 12, 1994

SUBJECT: Inquiry Concerning Policies on Communications with Other Agencies

Attached please find another document which is responsive to your request for RTC's policies concerning communications with other agencies. This document is identified as Document 4a, for purposes of the package we sent you yesterday, because it is the RTC's internal distribution memorandum for Document 4, the "Senior Interagency Group Policy Statement Regarding National Policy on Collection and Reporting Procedures for Restitution Payable to Financial Institutions Regulatory Agencies." Please call me at (202) 416-2116 if you have any questions.

Document 4a

Resolution Trust Corporation

July 21, 1992

MEMORANDUM TO: RTC Criminal Coordinators

FROM: Thomas L. Hindes
Assistant General Counsel (Professional Liability)

James R. Dudine
Director, Office of Investigations

SUBJECT: Interagency Agreement on Criminal Restitution

The attached Policy Statement on restitution-setting and restitution collection was approved by the Senior Interagency Group[1] on June 25, 1992. It has been distributed by the Special Counsel for Financial Institutions Fraud to all ninety-three United States Attorneys for immediate implementation. The document represents a major step forward in improving communications between the Department of Justice and the federal financial institution regulatory agencies.

The Policy Statement outlines mutual responsibilities of DOJ and the federal financial institution regulatory agencies, including RTC. Most of the contacts described in the agreement are self-explanatory and are already being made on a regular basis by RTC's Department of Legal Services and Office of Investigations Criminal Coordinators ("RTC Criminal Coordinators"). With respect to the other responsibilities described in the agreement, the following procedures are to be carried out by RTC Criminal Coordinators to ensure RTC's compliance with the provisions of the policy statement.[2]

Part I. Initial Contact (Section I. B.)

1. It is the policy of RTC to maintain frequent communication with the appropriate DOJ contact throughout criminal investigations and prosecutions of individuals suspected of crimes against RTC institutions. Contact should be made with the appropriate investigative agency and/or United States Attorney's Office within forty-five days after the filing of a criminal referral. Contact should also be made with regard to all criminal referrals deemed significant, even if generated by

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[1] The Senior Interagency Group ("SIG") was created pursuant to the mandate of Section 2536 of the Crime Control Act of 1990.

[2] Other duties and responsibilities of RTC Legal Division and RTC Investigations Division Criminal Coordinators are set forth in the graph attached to PM 3.19 of the FDIC/RTC Legal Division Procedural Manual.

institutions or other entities. In order to facilitate these ongoing contact responsibilities RTC and DOJ contact person(s) should be designated.

2. In order to ensure the exchange of information between RTC and DOJ as envisioned in the agreement, RTC Criminal Coordinators should regularly attend local bank fraud working group meetings within their jurisdiction.

Ongoing Contacts (Section I.D.)

3. As part of RTC's ongoing communication with DOJ in connection with restitution issues, designated RTC Criminal Coordinators should seek agreement with local United States Attorney's Offices and the FBI as to mutually convenient methods by which information about losses of the institution and known or suspected assets of the defendant will be provided to the AUSA or investigative agency handling the case. It is understood that in specific cases RTC staff attorneys, outside counsel and RTC investigators who are assigned to a matter will be primarily responsible for actually providing the information while the designated criminal coordinator will facilitate the communications.

4. RTC Criminal Coordinators should initiate contact with DOJ when seeking to obtain access to grand jury information under 18 U.S.C. § 3322.

5. Prior to submitting information to the U.S. Probation Office or the Court related to the sentencing of a defendant convicted of crimes against an RTC institution, RTC Criminal Coordinators should contact the AUSA handling the case to make certain the submission is in compliance with all local rules of the court.

Ongoing Contacts (Section I.E.)

6. Section I.E. requires mutual notification at critical points during each agency's investigative and legal actions.

RTC will be required to provide notice to DOJ before initiating or settling "major" cases (as defined) when a criminal referral has been filed or when it is reasonably anticipated that one will be filed related to the matter that is about to be initiated or settled. RTC Criminal Coordinators should provide such notice to the local Financial Institution Fraud Coordinator at the United States Attorney's Office. In addition, notice should be given to Carl Gamble, RTC Professional Liability Section in Washington DC, who maintains a list of current "major" cases being handled by DOJ.

DOJ is also required to provide notice to RTC prior to initiating or settling "major" cases under the same circumstances. In order to make certain RTC receives similar notice from DOJ related to all matters of importance to RTC, RTC

Criminal Coordinators should compile a list of financial institution fraud matters for which their office would like to receive notice under the terms of this subsection. The list should be forwarded to Carl Gamble, RTC Professional Liability Section, Washington DC. DOJ remains obligated to automatically provide notice on the larger universe of cases; however, reference to the above list will ensure that RTC gets notice on those cases deemed especially important.

Part II. Collection on Restitution Orders (Section II)

7. Under the terms of the agreement, DOJ will undertake primary responsibility for enforcing collection of the monies ordered. However, RTC will also play a significant role in that effort. Upon learning of a criminal restitution order payable directly or indirectly to RTC, RTC Criminal Coordinators will, at a minimum, undertake the following tasks: 1) Provide assistance to DOJ by identifying assets that may be used to satisfy the restitution obligation. For example, RTC Criminal Coordinators should ensure that, at a minimum, a Phase 1 Asset search is conducted and any resulting information is shared with DOJ; 2) Provide assistance to DOJ in reducing the restitution order to a civil judgment and initiating judicial or other proceedings to enforce the restitution order; and 3) Initiate and maintain close contact with DOJ to determine the most expedient methods available to collect monies due as a result of the restitution order.

8. To assist in monitoring RTC compliance with the agreement, RTC Office of Investigations Criminal Coordinators are urged to use the memo field on the TIMS criminal case database to record investigations. Until new fields are established to record the collection effort, those developments should be entered into the memo field as well.

Comments or questions about the contents of this memorandum or the Policy Statement should be directed to Carl Gamble, Professional Liability Section Criminal Liaison Unit at (202) 736-0511 or Anna Kautzman, Senior Investigations Specialist at (202) 736-3129.

cc: Richard T. Aboussie
Assistant General Counsel (Field)
Senior Counsel (Litigation)
Managing Investigators
Assistant Directors, Investigations

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

DRAFT

February 22, 1994

MEMORANDUM TO: Roger Altman
Interim CEO

FROM: Ellen B. Kulka
General Counsel

In his letter of February 18, 1993, Senator D'Amato is requesting copies of all recusals and ethics agreements with respect to Albert V. Casey and yourself. The policy of the agency in the past has been to automatically release recusals and ethics agreements which refer solely to those financial interests which already appear on the individual's SF-278.

With respect to any other recusals or agreements, the individual (Mr. Casey and Mr. Jacobs for example) have been informed of the request and their consent has been sought to release these additional documents which the agency considers confidential. The documents concerning Mr. Casey's recusal have already been supplies in the past and while we deem his previous consent to apply to the current circumstances, we are attempting to contact him to make him aware of our immediate intent to supply copies to Senator D'Amato.

The documents that apply to you which we have in our possession are the following:

1. January 11, 1993 letter to Dennis Foreman at Treasury indicating the matters from which you will withdraw, resign, or recuse yourself. This document does not directly relate to the RTC and we request your guidance about how you wish this to be handled in our response.

2. March 16, 1993 memorandum from Arthur Kusinski to the Executive Committee of the RTC identifying items from which you recused yourself in your capacity as "Acting President and Chief CEO of the RTC." A copy is attached for your use.

The Ethics Office has determined that all of the references in the attached recusal list are contained in your SF-278 or its attachments except for:

(a) the list at the bottom of page 4 which have been highlighted on the attached copy; and

(b) the three names highlighted on page 3 and the top of page 4 in which you had no direct financial interest but agreed in an excess of caution to be placed on your list.

Please advise us as to whether your consent to the release of the memorandum dated March 16, 1993 as well as your position on the January 11, 1993 letter to Mr. Foreman. Also attached is a copy of Senator D'Amato's request and our response to his earlier letter asking for identification of any recusal by you and Mr. Casey.

cc: Jean Hanson

Jw

RESOLUTION TRUST CORPORATION
OFFICE OF GOVERNMENTAL RELATIONS
CORRESPONDENCE REFERRAL

Document: 12765 Document Date: 94/02/08 **Due Date: 94/02/24**
Input Date: 94/02/09

NAME: D'Amato, Honorable Alfonse M.
Ranking Republican
Committee on Banking, Housing, and
ADDRESS: Urban Affairs, United States Senate
Washington DC 20510

Copies To:
Standard Dist.
Ellen Kulka
Krista Kauper
OGC ~~Staff~~
OGC Koos

Synopsis: QUESTIONS RE THE NUMBER OF TIMES THE RTC [CEO] ~~HAS~~ [RECUSE]D HIMSELF FROM INVOLVEMENT IN RTC MATTERS, A [SUMMARY] OF THE GROUNDS LEADING TO RECUSAL DECISION, RTC [POLICY] RE RECUSALS. [IMPORTANT]

Action: Prepare for Peter E. Knight's signature

OLA Contact: Neal E. Logue (202) 416-7099

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 1062A-801 17th Street) with WordPerfect disk or E-mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-4413.

* This form is necessary for review purposes *

Assigned To: Art Kusenski
OLA-OAC John Lynn - Contracts

Date:
94/02/09

AUTHOR: ____________________ PHONE: ____________

REVIEWED BY:	DATE IN	DATE OUT	REVIEWED BY:	DATE IN	DATE OUT

To: Peter E. Knight@OGR@RTCDC
Cc: Casey Carter@OGR@RTCDC,Linda D. Washington@OGR@RTCDC
Bcc:
From: Carol Obrien@OGR@RTCDC
Subject: D'Amato/recusal letter
Date: Tuesday, February 8, 1994 17:11:43 EST
Attach:
Certify: Y
Forwarded by:

Art Kusinski said this should be assigned to him. He has a copy and will begin work on it in the a.m. We will make sure that Ellen Kulka also has an informational copy.

Al D'Amato News Release
NEW YORK
Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Tuesday, March 1, 1994

CONTACT: Frank Coleman
(202) 224-6498

D'AMATO BLASTS WHITE HOUSE STATEMENTS ON SECRET RTC BRIEFINGS
"PATTERN OF DECEPTION" CONTINUES IN MADISON/WHITEWATER AFFAIR

WASHINGTON -- U.S. Senator Alfonse D'Amato (R-NY) today called for Senate Banking Committee hearings into secret briefings provided by the head of Resolution Trust Corporation (RTC) for senior White House political staff about the agency's investigation of the Madison/Whitewater affair.

D'Amato also charged that since the disclosure of the secret "heads up" was revealed at last Thursday's Banking Committee hearing, the White House was continuing its pattern of deception by suggesting that the same briefings were provided to Congress and the press.

"The White House has now compounded these shocking revelations by stating falsely that Congress and the media also received these briefings," D'Amato charged. "At the time this secret cabal was meeting at the White House, I was speaking out on the Senate floor about the RTC's failure to provide our Committee with any information about its activities on the Madison/Whitewater mess. And I have yet to encounter a reporter covering this story who says he or she was briefed by the RTC, let alone its acting CEO."

D'Amato, senior Republican on the committee, added that the exposure of the secret briefings at a Banking Committee hearing proved that Democrats needed to end their "footdragging" over whether or not to hold hearings.

"Only through a Congressional hearing did we learn of this very real threat to the integrity of the RTC's investigation," D'Amato pointed out. "We have a responsibility to the American people to fulfill our legitimate oversight function.

"The Democratic members of this committee must understand the threat is not Congressional inquiry, but secret, high level off-the-record 'heads-up' meetings between top Administration officials and White House legal and political experts," the Senator stated. The secret briefing, described as a "heads-up" by acting RTC head Roger Altman was presented to White House Counsel Bernard Nussbaum, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Jean Hansen.

Among the questions D'Amato said could be answered by a hearing: Why does White House Counsel Mr. Nussbaum need to be briefed on the RTC's investigation of Madison that does not involve the President in his official capacity? And what about Mr. Ickes and Ms. Williams? Why in the world would these political operatives need to be briefed by a top agency official on an investigation that has nothing to do with the Executive Office of the President? Were any confidential or non confidential RTC or law enforcement documents or other materials used during the briefing?

-fc022894-

NY Times 2/27/94

Slovenly White House Ethics

President Clinton and his helpers keep saying they have nothing to hide on Whitewater. So some evil genie must be making them act as if they do. The latest affront is the boneheaded conclave convened by Deputy Treasury Secretary Roger Altman to give a "heads up" to three White House officials about the Resolution Trust Corporation inquiry into a savings and loan association connected to Mr. and Mrs. Clinton.

Mr. Altman said he wanted to brief Bernard Nussbaum, the White House counsel, Harold Ickes, the deputy chief of staff, and Margaret Williams, the First Lady's chief of staff, on when the statute of limitations would run out on the R.T.C. investigation of Madison Guaranty Savings and Loan.

That is an interesting question and not unrelated to other questions that Republicans on the Senate Banking Committee and other reasonably curious Americans would like to have answered. Here are four:

1. Was Madison used to convert Clinton campaign funds to personal funds for the then Governor?

2. Did a regulator appointed by Governor Clinton go easy on Madison because it was owned by the Clintons' political ally, James McDougal, who was also the Clintons' business partner in the Whitewater Development Company?

3. Did the Clintons pay the same amount of money for their half share of Whitewater that Mr. McDougal paid for his? This question is important because it bears on whether Mr. Clinton, while Governor, received gifts or claimed undeserved tax deductions in connection with Whitewater.

4. Did Mrs. Clinton's law firm behave properly in its dealings with Madison and bank regulators?

Given that such questions are now before a special counsel and the R.T.C., a meeting between Mr. Altman and top White House aides was improper on its face. It could never have taken place in a White House that had even a rudimentary respect for the common-sense rules on conflict of interest. The Clinton team has taken the nation back to the

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5/14

reason to suspect that the goal of the meeting was to control political damage or compromise the R.T.C.'s investigation. Who knows what the White House has learned about the R.T.C. findings? After all, it was only through Mr. D'Amato's efforts that the Government released an R.T.C. document suggesting that Mrs. Clinton's law firm had failed at proper disclosure of its dealings with Madison.

In response to bad publicity, Mr. Altman has recused himself from the R.T.C. inquiry on Whitewater. His R.T.C. deputy should now take over all his duties at the agency until a permanent director is appointed. Senator Donald Riegle, the chairman of the Senate Banking Committee, needs to step up his committee's oversight activities. Other Democrats like Senator John Kerry need to cease their myopic defense of Mr. Clinton on a matter about which neither the Senator nor the public has been fully informed.

Opposition leaders are right when they say that a Republican White House that so recklessly meddled in the Justice Department, the R.T.C. and other agencies would be shelled with endless Congressional investigations. It is time for the Democratic Congressional leaders, Thomas Foley and George Mitchell, to try to educate this White House about the normal protocols of governance. Explaining what Representative Leach meant when he said "arm's length" would be a start.

Clinton aides behave as if their President had deep deposits of public trust. In fact, that account was pretty slim when Mr. Clinton got to Washington, and it is just about tapped out now.

U.S. SENATOR

Al D'Amato

News Release

NEW YORK

Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Friday, February 25, 1994

CONTACT: Frank Coleman 202-224-6498
Zenia Mucha 212-736-3865

D'AMATO DENOUNCES DNC CHAIRMAN'S POLITICAL STRONGARM TACTICS

WASHINGTON -- U.S. Senator Alfonse M. D'Amato (R-NY) today denounced the political intimidation tactics being used by Democratic National Committee Chairman David Wilhelm to prevent further investigation of the growing Whitewater/Madison scandal.

"It is an outrage that the President and First Lady would use their handpicked political hatchetman to try and intimidate the legitimate oversight responsibilities I have as a United States Senator. This is another clear sign that something is rotten in Little Rock," said D'Amato.

Attached is the letter from Wilhelm to Senator D'Amato and D'Amato's response.

# # #

United States Senate • Washington, D.C. 20510 • (202) 224-6542

February 25, [illegible]

Senator Alfonse D'Amato
United States Senate
520 Hart Senate Office Building
Washington, D.C. 20515

Dear Senator D'Amato:

It is clear you are the leader of the Senate GOP attack on the credibility of the RTC and FDIC investigations of Madison Guaranty Savings and Loan and the Rose Law Firm. You claim you are motivated by concern over possible ethics violations and not political partisanship. In that light, it seems only appropriate we examine your own history because your accusations of conflict of interest seem more appropriately applied to yourself.

You have fought to extend the statute of limitations in the RTC savings and loan investigation because of a potential conflict of interest with regard to Madison. However, one need only cursory examination to see that you are a more appropriate target for extension of a statute of limitations. Your actions present a clear pattern of conflict of interest over savings and loans and other business interests.

You personally benefitted from the existence of a statute of limitations. In 1986, three highly respected deans of leading law schools said new evidence "proves the probability of perjury" in your testimony before a 1975 federal grand jury. As I'm sure you will recall, you testified you were unaware of the "1 percent rule," a practice of forced payments by employees of the town of Hempstead to the Nassau County Republican Committee. These payments occurred while you were Hempstead's Town Supervisor and Vice-Chairman of the county party.

In 1985, it became public you were in fact very much aware of the practice at the time of your testimony, and had been actively involved in collecting those payments on behalf of the Nassau County Republican Committee. It became public through release of a letter you wrote, in which you claimed success in collecting this payment from a particular employee. Your letter became key evidence in the trial proving the existence of the "1 percent rule." However, by the time the new evidence emerged, you were immune from prosecution because the statute of limitations on the case had run out.

Your position on the statute of limitations would have more personal credibility if you demonstrated consistency by fighting to extend the statute of limitations on your own grand jury testimony in the Nassau County case. You also criticized a 1993 amendment which would have extended the statute of limitations on bringing legal action against negligent savings and loan directors. [illegible] voted to protect directors of savings and loan institutions by leaving the statute of [illegible] place.

In addition [illegible] point fingers of blame in the Savings and Loan collapse and clean-up you should [illegible] to point to yourself. Your gutting of legislation to tighten regulation on corporate [illegible] resulted in the removal of a provision that would have limited S&L purchases of junk bonds. Your contribution records demonstrate a curious pattern of financial support from junk bond dealers and thrift operators at the same time you have worked to weaken legislation which would have restricted junk bond investments by savings and loan institutions. Of course, weaker legislation has now cost taxpayers billions of dollars in clean-up.

Finally, your charges of unethical management do not reflect your own experience of being found by the Senate Ethics committee to have "conducted the business of {your} office in an improper and inappropriate manner" that permitted your brother Armand to send letters to the Pentagon urging approval of weapons contracts for a company he represented.

I hope you will give serious consideration to the points discussed here and that you will take action to extend the statute of limitations on your testimony of 1975.

Sincerely,

David Wilhel

David Wilhelm
Chairman

ALFONSE D'AMATO
NEW YORK

United States Senate
WASHINGTON, DC 20510

February 15, 1994

Mr. David Wilhelm, Chairman
Democratic National Committee
430 South Capitol Street, SE
Washington, D.C. 20003

Dear Chairman Wilhelm:

I am in receipt of your letter from this afternoon. It only reconfirms my suspicion that something is rotten in Little Rock. You can be sure that I will now redouble my efforts to get to the bottom of this Whitewater/Madison scandal.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senator

P.S. Your attempt to interject political intimidation into this process is despicable.

Washington Post 2/26/94

Senior Official Steps Aside in Probe Of S&L Linked to Clintons' Venture

By Susan Schmidt
and Charles R. Babcock
Washington Post Staff Writers

Deputy Treasury Secretary Roger C. Altman, a political appointee serving as temporary chief of the federal thrift cleanup agency, recused himself yesterday from any further action on the investigation of an Arkansas savings and loan with ties to President Clinton and Hillary Rodham Clinton.

Altman announced he was taking the step one day after revealing during congressional questioning that he recently briefed White House officials on how his agency would proceed with potential civil claims growing out the failure of Madison Guaranty Savings & Loan. Altman's disclosure, under questioning from Republican senators, was criticized as evidence that the White House is improperly interfering in a case that directly affects the Clintons.

Altman also said he will step down [illegible] interim head of the Resolution Trust Corp. at the end of March. The administration is expected to nominate a permanent chief soon for the RTC, which by law is supposed to be [illegible] independent federal agency. Treasury officials said Altman did not believe th Madison investigation presented a conflict for him but realized there was the appearance of conflict and decided to recuse himself for that reason.

The RTC is disposing of failed S&Ls and pursuing civil and criminal cases against officers, directors, lawyers, accountants, borrowers and others. Hillary Clinton and her former associates at the Rose Law Firm in Little Rock, Ark., represented Madison before state regulators in the mid-1980s.

Altman told the Senate Banking Committee that he contacted White House counsel Bernard Nussbaum about three weeks ago and offered to meet with him to explain what the RTC would do as the deadline for filing civil claims in the Madison probe neared. That deadline was Feb. 28, but Congress has extended it until the end of 1995.

Altman said he met with Nussbaum: Margaret Williams, Hillary Clinton's chief of staff: and the president's deputy chief of staff, Harold Ickes, who has been assigned the task of damage control in the Whitewater probe.

White House officials yesterday defended the meeting. "There's nothing improper about it," said White House press secretary Dee Dee Myers. "He basically informed the White House—as he did Congress, as he did the press. It was strictly a procedural briefing. There was nothing available that was not available to members of the press or Congress."

Altman said he told White House aides during the meeting that if the RTC found a claim was warranted, it would either file a lawsuit or ask potential defendants to voluntarily sign agreements extending the deadline. He said he already had given such information to inquiring Republican members of Congress.

Meanwhile, Rep. Jim Leach (Iowa), the ranking Republican on the House Banking Committee, yesterday released portions of a taped conversation in which the Clintons' former business partner, James McDougal, disputes their accounting of their investment in their joint Whitewater land venture. McDougal said in the 1992 conversation that the Clintons never made a $9,000 interest payment that they claimed on their 1980 federal income taxes and that they used corporate assets to pay off a personal loan.

In a memo to minority committee members, Leach said McDougal's comments "appear to indicate that the Clintons lost no money in Whitewater" and "suggest that the tax consequences which emanate from this venture merit careful scrutiny."

Leach, who has been gathering documents for hearings he plans to hold next month on the Whitewater matter, said in an interview yesterday that he considered McDougal's comments important because, "he is sitting down with book ledgers, which lends it great credibility." The tape was made during a talk McDougal had in the spring of 1992 with Sheffield Nelson, who ran for governor against Clinton in 1990 and was himself an investor in a project financed through the McDougal-owned Madison Guaranty Savings & Loan.

The Clintons claimed in their 1980 federal tax returns that they made $9,000 in interest payments to McDougal related to the Whitewater venture. "They didn't pay me. . . . They have never paid me a penny's interest," McDougal said.

In recent weeks, McDougal has said that he could recall the Clintons putting about $13,500 into Whitewater, not the $68,900 they claimed when the investment became an issue in the 1992 presidential primaries and since.

Referring to the 1992 taped conversation, Bruce Lindsey, a senior White House aide, said yesterday, "I think he [McDougal] is confused. He has said he is relying on his memory with these amounts, and his memory is mistaken."

Lindsey said in an earlier interview that he believed the Clintons paid McDougal $9,000 in 1980 to compensate him for interest he had paid on a joint loan used to finance the Whitewater venture.

Special counsel Robert B. Fiske Jr. is now trying to sort out Whitewater's finances as part of an intense Justice Department investigation.

In the taped conversation with Nelson, apparently just after the Clinton campaign released a report about the Whitewater investment, McDougal said: "I could sink it [the $68,900 figure] quicker than they could lie about it if I could get in a position so I wouldn't have my head beaten off. And Bill knows that."

In the transcript, McDougal said the Clintons personally sold "a corporate asset" for which Whitewater had made all the payments. He was referring to a lot and model home on the Whitewater property. Lindsey said the Clin[illegible]ade some payments on the lot.

Last night, McDougal said a transcript read to him "sounds fabricated." He told the Associated Press, "I'm reserving any further comment until whatever Republican prepared the transcript makes the original tape available."

In another development, Sen. Alfonse M. D'Amato (R-N.Y.) accused ~~Democratic~~ National Committee Chairman David Wilhelm of using "political intimidation tactics" in a letter criticizing D'Amato for leading the GOP charge on Whitewater.

In the Feb. 25 letter, Wilhelm said D'Amato's own actions "present a clear pattern of conflict of interest over savings and loans and other business interests." As one example, he cited a Senate ethics committee probe of D'Amato's conduct in permitting his brother Armand to send letters under his name to the Pentagon to lobby for a contract.

D'Amato's reply said the letter "reconfirms my suspicion that something is rotten in Little Rock."

Staff writer Ruth Marcus contributed to this report.

experience may be a challenge for school administrators. It is as fundamental to the curriculum as algebra. I would encourage the Senate to maintain these critical elements in the program.

Harris. I want to commend you for successfully moving the concept of our Youth Apprenticeship Program from a program which we started in Pennsylvania into a means for changing the face of vocational education throughout the nation. I wish you much success with the School-To-Work Opportunities Act.

Sincerely,

ROBERT P. CASEY,
Governor

Mr. D'AMATO. Mr. President, I ask unanimous consent that I might be permitted to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. D'AMATO. Mr. President, I intend to take only a few minutes to speak on a matter, I think, of incredible importance. I do not know of anyone to whom I have talked, who is not shocked and deeply hurt, with emotions running the entire gamut as it relates to what is taking place for the past 3 years in Bosnia.

I think it came to a horrific conclusion—I would not say "conclusion"; I wish it were a conclusion. But it certainly made an indelible impression on everyone who has seen any of the accounts of the bombardment in Sarajevo which resulted in the wounding of hundreds of people with 68 people, innocent people, civilians—men, women, and children—killed, all in a beautiful city which hosted, not too long ago, the winter Olympics. Now we see how the snow has been turned red with the blood of the innocent.

It is now clear that the United States and the United Nations have not met our obligations in Bosnia. The United States, both under President Bush and President Clinton, under both administrations, has made many grand statements and has even made some threats, all of which have turned out to be meaningless. Our routine warnings are now only that. We lack credibility.

Mr. President, what we have done is flown right in the face of some very elementary principles, those laid down by President Teddy Roosevelt: that is, "speak softly and carry a big stick." Do not make threats. Do not make warnings unless you are willing to carry them out.

When you make bold statements as the leader of a great nation and then do nothing, it does not just undermine your own credibility; it embarrasses the United States of America. To be quite candid, it weakens us.

It invites the kinds of aggression that we have seen in other areas of the world, where people take us for granted and do not believe we have the resolve to stand.

After 3 years of this war, the United States has talked a mighty tough game. Outside of putting sanctions on Serbia, we have done nothing but ignore this brutal war. In fact, five State Department officials have resigned as a protest to the policy in regard to Bosnia: George Kenney, Jon Western, Stephen Walker, Marshall Harris, and former U.S. Ambassador Warren Zimmerman.

If the United States cannot protect the innocents of Bosnia, we should allow the Bosnians to defend themselves. Let us level the playing field. While the Serbs in Bosnia have access to vast quantities of weapons from Serbia, the Bosnian Moslems are left without weapons to defend themselves. Even His Holiness, the Pope, last year said the Bosnians have a right to defend themselves.

What kind of policy do we have when we are not even willing to allow them to defend themselves or to help them with the military supplies that they are entitled to when we see this massacre continue? And now we say to ourselves, "Oh, well, we cannot prove with absolute certainty that the mortar round came from the Serbians." Who has been shelling the city for the last 3 years? Who has been killing the people? Even now people cannot bury their dead. They have to do it under cover of darkness. They cannot do it during the daytime because of the snipers firing down upon them.

Mr. President, I believe that any lifting of the arms embargo against Bosnia should be coupled with the use of air power. Let me suggest to you that you are not going to knock out the gun emplacements, the ones in the mountainside, others hidden in caves, which they drag back and forth. But there are economic targets. I brought this idea to the attention of the Senate back in August 1992, with the past administration. This is a folly that continues.

I remember President Clinton talking about taking action if necessary. Let me say something. If we are going to threaten, then let us do something; otherwise we should not make hollow threats, because we cruelly raise false hopes in those who are oppressed that we are going to somehow come to their aid.

I suggest that the Western nations, the United Nations, and the United States have done exactly that—raised the hopes of the victims of the Serbian aggression and have not followed through.

Let me also suggest it is about time we let the Serbs in Belgrade understand that they are going to pay a price for their support of the war in Bosnia. They have supplied the munitions, and have continued the war. They cannot now just wash their hands of the situation. Here they are, in Belgrade. They are not having problems. They have electricity, food, and water. Their economy may have some problems, but mostly they are well.

Let us look at the economic targets there, whether it is the power plants and the fuel distribution systems, cetera, and let them know that we w punish them for the aggression th they have helped to foster. So there a things we can do.

We should not be saying we are goi to do something and let Mr. Milosev then laugh at us because he sees th we lack the will to back up our rhe oric with action.

Mr. President, I certainly hope th within the not-too-distant future, w at least give the Bosnians an oppo tunity to defend themselves.

Thank you, Mr. President.

WHITEWATER/MADISON COUNTDOWN

Mr. D'AMATO. Mr President, I ha come to the floor on a number of occa sions, and I have said to my co leagues—and I do not intend to take great deal of time—that I would co tinue to raise an issue that I thin must be raised until the American pe ple get, and Congress gets, satisfactor explanations and answers as it relate to how it is that with only 21 days le until February 28, when the statute limitations runs out, or at least, th RTC has led us to believe that this the date, there is no perceptible mov ment at the RTC. Anyone responsib for the loss of possibly millions of do lars will be immune from civil actio after the 28th; after the 28th, the Ame ican people will lose their best chanc to recoup the taxpayers' money poure into the Madison bailout.

Since this is Monday, I will cross o not only Monday, but I will cross o Saturday, Sunday, and today.

That gives us 21 days remaining i the countdown. When time runs out, w will lose the opportunity of seeki civil remedies against those people w may be responsible for the loss of po sibly millions of taxpayers' dollars p into Madison.

With only 21 days to go, we still ha not seen any results of the RTC inve tigation of potential civil violations a the Madison.

Mr. MURKOWSKI. I wonder if th Senator will yield for a question.

Mr. D'AMATO. Certainly.

Mr. MURKOWSKI. I wonder if th Senator is certain that February 28 i the date the statute of limitation would run out with regard to Madiso Guaranty.

Mr. D'AMATO. I would have to an swer my colleague that I am not cer tain that is the date; that while th RTC has indicated in the letter the sent to us that February 28 is the anni versary date, and the RTC seems to b operating on the premise that an RT suit to take place to recover taxpayer money would seem to have to be init ated by February 28, they have not ex plicitly indicated that to us.

Mr. MURKOWSKI. I wonder if I cou pursue this, Mr. President. I under stand that the Senator from New Yor has sent letters on two separate occa sions to the RTC inquiring specifical as to the status of the statute of limitations.

Mr. D'AMATO. That is correct. We have sent two letters. One reply was received last week, and the response on this question as it relates to explicitly the statute of limitations was at best evasive.

Mr. MURKOWSKI. I wonder if the Senator will yield further. I am familiar with the letter that he placed in the RECORD. I have a copy of that letter with me today.

I took a close look at the letter and the RTC only acknowledged the impending February 28 anniversary date, but they do not indicate that is absolutely the last date. Further, in the second paragraph of that letter, with regard to claims existing, the RTC indicates they will "vigorously pursue all appropriate remedies using standard procedures in such cases which could include the seeking of agreements to extend the toll on the statute of limitations."

But I would emphasize they use the words "which could." They do not specifically state that they will.

I wonder if there is any explanation for that.

Mr. D'AMATO. The Senator has put his finger exactly on the point.

We talk about obfuscation. We cannot get and have not gotten—and it is now close to a month—from the RTC an answer as to exactly when the RTC can no longer bring civil litigation in this case. The RTC letter talks about an anniversary date of February 28. That does not tell us that is the date. We do not know specifically whether or not that is the date. I share the Senator's curiosity as to what they mean when they talk about that particular date.

Then they talk to us about procedures that have been used in the past—the use of the tolling of statutes of limitations, entering into agreements with people who face potential liability — but they do not indicate that they are seeking these tolling agreements. They do not indicate that in lieu of getting a tolling agreement they will bring civil action.

Here we have 21 days to go, and we have no indication other than they understand that there is a procedure and this procedure has been used.

Mr. MURKOWSKI. With regard to that and the relevance of the anniversary date to the RTC law enforcement responsibilities, one can only assume it would relate to a determination that the RTC should make with respect to entering into these tolling agreements, the stopping of the running of the statute.

In their letter to you, the RTC says it will pursue all appropriate remedies using standard procedures which they say could include seeking arrangements to toll the statute of limitations.

I ask the Senator, is it correct that the RTC has made no commitments to toll the statute of limitations with regard to Madison?

Mr. D'AMATO. The Senator is absolutely correct. They have not made any commitments. They have only indicated that in the past this has been standard procedure. What basically we are saying is, give us the assurance that you are going to get this tolling agreement that stops the statute of limitations from running out.

People should understand why they do this. Because, in lieu of someone agreeing to give them sufficient time to explore all of the facts, they then bring a broad-based suit against all potential people who may be liable. In this way, they preserve the taxpayers' rights.

By the way, I might say that this goes back to an original letter of January 11 when I and several of our colleagues wrote to the RTC suggesting that tolling agreements should be sought in this matter, and they have yet to inform us that they are going to take the time.

Now this is obfuscation. It only was after Senator RIEGLE loaned himself to this that at least we got the answer that you read part of in the letter of January 25.

Mr. MURKOWSKI. I wonder, in the case of where the RTC would fail to enter into a tolling agreement before the 28th of February, are there any other remedies available to the American taxpayer, assuming the RTC fails to file a lawsuit?

Mr. D'AMATO. In the absence of a tolling agreement or lawsuit, the RTC and the American people would lose the opportunity to recover taxpayers' money that it might be entitled to in the Madison bailout. And, I think it is fair to assume that would be a pretty bleak picture to spell out to the American taxpayers, given that we are talking about people in high positions that this might touch upon. It could even have been said they have been given a free ride at the expense of the American taxpayers.

Mr. MURKOWSKI. Currently the taxpayers are subjected to about $47 million to the Madison bailout; is that generally the Senator's understanding?

Mr. D'AMATO. That is approximately the bottom line; the Senator is correct, $47 million, at the low end. It might be more.

Mr. MURKOWSKI. We have heard this is far from the largest S&L bailout that the taxpayers have had to pay. As we know, we have had billion-dollar savings and loan failures and we have large cases that are still pending. But would you not expect that the RTC would enter into tolling agreements in all cases, uniformly, whether they involve $10 million or $100 million or a billion of taxpayers money?

Mr. D'AMATO. The Senator is absolutely correct. As a matter of fact, Mr. Altman, while he says it is the standard procedure, refuses, and does not indicate that they are undertaking this action or are they contemplate taking it.

Mr. MURKOWSKI. This is what bothers the Senator from Alaska. Why would not the RTC want to simply extend the tolling agreement so that they could pursue the civil action and not run the risk of having the statute of limitations expire on February 28? I mean, I do not understand why, since they have evidently done it as a matter of course, they would not do it in the case of Madison.

Mr. D'AMATO. Senator MURKOWSKI, you are absolutely correct. And it just seems to me that it is so basic. That is why, when we come to the floor and raise this issue, I think some of our colleagues become uncomfortable.

I have been asked: Why is it that you have not raised this about other S&L's? Because I have not been aware of tolling agreements that should have been and have not been sought.

As a matter of fact, I have had complaints from scores of bankers around the country—and I know my colleagues have—who, as a result of being directors, part-time directors on boards—who had no malfeasance or misfeasance but were successful business entrepreneurs and therefore served on some of these small bank boards and found themselves in trouble when the real estate market collapsed—find themselves the subject of, lawsuits because they had so-called deep pockets.

In the past, the RTC has been be very rigorous going after people that had absolutely no liability but did have some money. Here we cannot even get an answer from the RTC as to what they are doing, what they intend to do in this case. Yet the statute is running, the clock is ticking. This may embarrass our friends, but we are going to continue to call it to their attention.

Mr. MURKOWSKI. The Senator has heard the allegation that this is a political witch hunt of some consequence with regard to the S&L because of the delicate nature of those involved. But it would seem to me responding to what my good friend from New York, Senator D'AMATO, is attempting to do is something that is done as a matter of course with regard to the RTC extending the tolling. The Senator from New York has written two letters to the RTC asking them to extend the tolling and they have given us less than a complete answer from the standpoint of a reference to them, perhaps including agreements. But, I just cannot understand why they are reluctant to simply say we will extend the tolling.

Mr. D'AMATO. Or attempt to.

Mr. MURKOWSKI. Or attempt to, which would certainly seem to be appropriate in relation to past practices.

I commend the Senator from New York. I do not think this is a politically motivated action of any kind. It is simply an action to recognize the reality that comes the 28th of this month, it very possibly will be too late to pursue any civil action associated with this case because the statute of limitations would have expired. Yet, in many of the activities associated with the administration of the RTC, they have automatically extended the statute through the voluntary tolling agreements which are negotiated between the RTC and the institution or its directors.

Mr. D'AMATO. Or those people who may have some liability, that is correct; through their attorneys. That is, all we want, is impartial but vigorous enforcement as has been undertaken in other cases. We just want the uniform enforcement of the laws passed to protect taxpayers.

Mr. MURKOWSKI. I hope that those that might question the motivation here recognize the significance of what the Senator from New York has pointed out. Indeed, by the 28th of this month, it may be too late to pursue, on behalf of the taxpayers, the approximately $47 million that has been charged off in the bailout of the Madison.

I wonder if the Senator from New York would allow me one more question. Who is running RTC at this time?

Mr. D'AMATO. I am glad the Senator has raised this question. Because this really is a situation that I think is very regrettable.

The RTC is being run on interim basis—when I say interim basis, that interim basis now has gone on for almost a year—by the Deputy Treasury Secretary, Roger Altman.

I have to tell my colleague, the RTC's failure I think to respond to legitimate congressional inquiries has raised bureaucratic obfuscation and nonresponsiveness to the level of an art form. The stonewalling starts right at the top, and it includes Mr. Altman, who has sent us two of these letters. Maybe we should call him Stonewall Altman. That might be a new name.

He is not only stonewalling the Senate but I would indicate to my friend and colleague from Alaska, Senator MURKOWSKI, that last week, Congressman JIM LEACH, my counterpart on the House Banking Committee, raised some very significant and serious questions about Mr. Altman's dual role. Here is Mr. Altman who is wearing two hats. He is the Deputy Treasury Secretary, and that is a very responsible, time consuming position. At the same time he is the interim head of the RTC. This may place—I believe does place—conflicting demands on him. It is unfair to Mr. Altman. It creates an unseemly appearance at the least, in the eyes of the American people.

Mr. Altman has been the interim CEO of the RTC for almost a whole year. Last year when we were considering a RTC funding bill we were told that Mr. Altman would be out of the RTC as soon as the new CEO had been selected and confirmed. Now it is almost a year later. The one candidate for RTC chief that they had withdrawn, and Mr. Altman is still the head.

That is only half the story. Because, you see, Mr. Altman, as a ranking political appointment of the administration—and he is Deputy Secretary of the Treasury—is the No. 2 person at Treasury. He is appointed by the President of the United States. How can you ask a man who is appointed by the President to undertake or to pursue a vigorous civil investigation as that may touch upon the President, the First Lady, and other people, or family members of such people, in the administration? It is not fair to Mr. Altman.

I do not suggest any impropriety on his part. But I suggest he is placed in an untenable position. We cannot have a political appointee investigating the person who appointed him, who is responsible for his appointment. That is basic Logic 101.

Because what this does at the very least, it creates a compromising appearance. Let me tell you something. I know Roger Altman. He is a man of integrity. He is a man of great ability. He is a man in a very responsible position. He cannot be running the Treasury Department and he cannot be supervising the RTC and this investigation without there being questions raised as to how someone can possibly be looking into bringing a civil lawsuit, or extending toll agreements when a statute is running, that may relate to or touch upon a person who is responsible for appointing him and/or people close to him or his family. It is ridiculous.

It certainly raises the issue of his ability to run an independent agency like the RTC in a completely independent fashion that the people are entitled to. And it is wrong. No one should be placed in such an untenable position where an obvious conflict exists.

Just consider the possibilities. A high ranking political appointee with close ties to the White House who also holds an official position that may require him to possibly pursue civil legal action involving the person who appointed him. I do not care what administration that is in, we understand it and that is why we allow in these situations the appointment of a special counsel.

Through circumstances, Mr. Altman is in a difficult spot. His personal predicament aside, the taxpayers may suffer the most. At the same time, Mr. Altman is forced to perform this high wire act the RTC is being evasive and cryptic and it's unclear what the RTC is doing to enforce the law. It is also unclear whether the RTC will be able to enforce the law, if need be, before the statute of limitations runs out and the American taxpayer is left holding the bag.

An 11-month tenure in an interim position is too long. That is how long Mr. Altman has been there. The Constitution requires the Senate to advise and consent on top executive officials. This is a key part of our checks and balance system. Mr. Altman's permanent interim role at the RTC looks like an end-run around the Senate. Again, I am not questioning Mr. Altman's character, dedication to public service, or ability. Indeed, I have high regard for him. But what I am questioning is the propriety of putting any public official in such an awkward role. There is an absolute conflict in this dual role and it is just not right.

I therefore call upon the administration to immediately put forward Mr. Altman's name as the candidate to be the full-time chief executive officer of the RTC, or submit another nomination. Mr. Altman's continued presence at the helm of the RTC is absolutely not the right thing to do.

It is unfair to him. It is absolutely unfair.

Mr. MURKOWSKI. Mr President, I would like to again commend the Senator from New York. I think, if you boil this dialog down to one simple thing, it is simply asking Mr. Altman as interim CEO of the Resolution Trust Corporation to come forward and simply extend the tolling agreement on Madison, which would extend of course the statute of limitations. Then the process that is underway can continue. It can be resolved to the satisfaction of the American people, and in the interests of the taxpayers who lost $47 million.

I think, again, the Senator's efforts are to bring this before this body and the American public, by highlighting the reality that the time is passing and there are very few days left before the statute expires. We are going to have the Lincoln day recess. By the time we come back there will only be a few days left. I hope this would not be the objective of the RTC, to simply let the statute of limitations expire because that would appear, obviously, to be contrary to the best interests of our administrative oversight through the RTC. But one can only draw a conclusion because, as Senator D'AMATO pointed out, they have the authority to extend it. The question that they are not responding to, as the Senator cited in his letter, is why they do not extend it. If they do not, one can only conclude they hope my colleague and others will not raise this issue, and bring it before the American public, to show the statute of limitations is about to expire. And when it expires, the civil investigation basically goes away, as I understand it.

So, in conclusion I commend my colleague for bringing this matter before this body.

Mr. D'AMATO. Mr. President, I want to thank Senator MURKOWSKI for raising these questions. And they are important.

I note, if you take a look at the calendar, it would appear there are 21 days between now and—if the tolling date turns out to be the 28th. But that is not really true. If we were talking about working days we will find that we only have 4 more working days that the Senate will be in session and Congress will be in session this week: the 8th, 9th, 10th, and 11th.

We go out of session on the 11th. We will not be back in, until the 22nd. So that gives us 5, 6, 7—8 days. So, in essence, while there are 21 calendar days between now and the time the statute of limitations runs out, there are 8 days in which the Congress will be in session to raise this issue and to address it.

If I had not seen a stonewalling and obfuscation before, it is certainly here. I think the Senator is absolutely right. The RTC is playing this game: We will just make believe it does not exist and maybe it will go away. Maybe whoever it is who brings this to our attention will stop. I am not going to stop.

But let us understand, my colleagues, all of us, when and if this is allowed to take place, these 4 working days the rest of this week and the 4 the last week, we are all—we should all be held accountable and responsible for allowing the RTC to allow the statute of limitations to run. I have to tell you, if he wants to run it, fine, but I do not know how he, Mr. Altman, can be in charge of this investigation. I just do not know how it can be done. It is wrong for him. It is wrong to place him in that position. I do not know how you get around it. He did not take on this position to be placed in that position.

Yet, that is exactly where he is.

Mr. MURKOWSKI. Mr. President, the Senator might give some thought to an 8-day calendar, in reality. That is what we have, as the Senator pointed out, with the Lincoln Day recess.

Let there be no mistake about it, there is not much time. I hope the Resolution Trust Corporation, under Mr. Altman, will reflect on—and the directors and those involved—the necessity of a very simple extension which would give the assurance to the public that there will be adequate time to do the appropriate followup, should it be necessary, with regard to Madison Guaranty.

I thank my friend from New York.

Mr. D'AMATO. I thank the Senator. I will add I think that the administration should consider how to manage Mr. Altman's dual duties at the RTC or as Deputy Treasury Secretary. I would suggest that if he is going to run the RTC, then the administration might want to consider whether it is apppropriate, and consult with the relevant authorities at Treasury, to consider his move from the Treasury and undertake his responsibilities on a full-time basis; whether this or other measures are appropriate to ensure that the public's confidence is maintained. I believe he should discharge his responsibilities accordingly, but you cannot ask him to wear both hats, particularly given the sensitivity of this particular matter.

I have talked far enough, and I thank my Senators for being so patient and for giving me the opportunity to express my thoughts on this matter.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I came over here prepared to discuss the school-to-work bill. I have to say I am not prepared to discuss the matter that has been discussed by our colleagues from Alaska and New York. Senator PRYOR has really enmeshed himself in this, and I am sure at an appropriate time he will want to respond.

I assure those who may be viewing this session that there is another side to this, but I am not enmeshed in this enough to be able to respond to that.

Mr. President, if no one seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent that the Kassebaum amendment be set aside so that Senator THURMOND can offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1428

(Purpose: To give priority for implementation grants to applicants that describe systems that include programs that will provide paid high-quality, work-based learning experiences)

Mr. THURMOND. Mr. President, I rise today to offer an amendment to S. 1361, The School-to-Work Opportunities Act of 1994. The amendment will allow for the streamlining of States' vocational and education training systems.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to this amendment: Senator CHAFEE, Senator COATS, Senator DURENBERGER, and Senator GREGG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, as you know, this legislation addresses the issue of preparing our youth to meet the challenges of a highly skilled, highly competitive workforce. It is intended to help students make a successful transition from school to their first job by linking academic instruction with on-the-job experiences.

S. 1361 will be jointly administered by the Secretary of Labor and the Secretary of Education. It will provide grants and waivers of Federal regulations to build a national framework for State school-to-work systems.

Mr. President, the U.S. General Accounting Office recently cited over 150 existing job training and education programs on which the Federal Government spends over $20 billion each year. This is unreasonable. We must encourage our States to coordinate existing programs into statewide school-to-work systems.

My amendment will do just that, by removing the paid work mandate from this legislation. It will thereby remove the limitations of requiring paid work, and allow businesses more opportunities to participate.

Unquestionably, business is essential to the success of this legislation. However, if the paid work mandate is not removed, many businesses will be excluded from participating under this legislation.

I also believe that the ability of States and local partnerships to consolidate existing programs will be limited if all students in the school-to-work system must be paid for their work.

This amendment will allow a preference to State systems which do provide paid work experiences. This does not mean that a student must be paid for the entire time they participate in the program. It simply means that when a student is on the job, producing a product or providing a real service, they may be paid for their actual work.

For example, a program which trains students during the school year, but pays them only for summer jobs completed through the program would still meet the requirement of the paid work experiences.

The Secretary of Education, Secretary Riley, has written a letter to me clarifying that under this legislation "students do not need to be paid for all work-related activities."

Mr. President, this amendment will allow States the flexibility needed to include elements of other programs or to be creative in tailoring programs to address local needs and concerns. It will allow a State to develop a system that consolidates or coordinates the best aspects of other existing programs.

I would like to thank the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the chairman of the Subcommittee on Employment and Productivity, Senator SIMON, and their staffs for their hard work in addressing a number of my concerns.

Again, I believe that my amendment will allow the consolidation of a number of Federal training programs in a State system and possibly be more cost effective in the long run. Therefore, I urge my colleagues to support this worthy amendment.

Mr. CHAFEE. Mr. President, I would like to enter into a colloquy with the sponsor of S. 1361, Senator SIMON, to clarify the intent of the paid work provision contained in this bill. I believe most of my concerns will be addressed by an amendment Senator THURMOND and I have worked out with the administration, and which the managers are prepared to accept, dealing with paid work.

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March 6, 1994

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Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

During the recent RTC Oversight Board Hearing, you made some startling disclosures about a "heads-up" briefing that you and Treasury General Counsel Jean Hanson gave top White House insiders. Your testimony triggered another disclosure about two earlier clandestine White House meetings. The list of participants in these meetings includes many top Administration figures and political operatives, including White House Counsel Bernard Nussbaum and Ms. Hanson.

Ms. Hanson has been described as one of "Treasury's top political team." In light of her prominent behind-the-scenes role in the handling of the Madison affair, and her role at the Department of Treasury, I would like to know whether Ms. Hanson was present at the RTC Oversight Board hearing on February 24th. As the top legal advisor to the Secretary of Treasury and the Department's chief law officer, it would make sense for her to attend a hearing where people she advises--namely, Secretary Bentsen and yourself--were testifying.

If Ms. Hanson did attend, why did she did not come forward and brief the Committee members, and witnesses, including yourself, about these other questionable White House meetings in which she participated? The American people and Congress have a right to demand and expect from high-ranking administration figures such candor and honesty. In addition, did she ever brief you on these earlier meetings? If she did not brief you about these meetings was she not derelict in her duties?

12993

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senate

12994

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Document: 12929 Document Date: 94/03/01 **Due Date:** 94/03/08
Input Date: 94/03/03

NAME: Leach, Honorable James A. H.R.
Ranking Minority Member
Committee on Banking, Finance
ADDRESS: House of Representatives
Washington DC 20515

Copies To:
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Synopsis: MEETING WITH [WHITE] HOUSE OFFICIALS ON SUBJECT OF [MADISON] [GUARANTY] [ALTMAN] SHOULD [RESIGN] FROM ALL RESPONSIBLITIES AT THE RTC--IS ONLY [ETHICAL] OPTION IN ORDER [IMPORTANT]

Action: Prepare for Mr. Altman's signature

OLA Contact: Carol O'Brien (202) 416-7314

INSTRUCTIONS

Author of the draft response and person(s) reviewing response should sign this routing sheet. Please forward draft response by DUE DATE with this completed form to OLA (Renee Kelly-Room 1062A-801 17th Street) with WordPerfect disk or by E-mail (Renee Kelly@ OLA@ RTCDC). Routing sheet may be faxed to (202)416-4413.

*** This form is necessary for review purposes ***

See 12922

Assigned To:
OLA-LEG Ellen B. Kulka - Legal

Date:
94/03/03

AUTHOR: ______________________ **PHONE:** ______________

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The Honorable Roger Altman
Interim CEO
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed is a self explanatory letter to Mr. Bernard Nussbaum et. al. As you know, in my letter of February 3 I had suggested that you recuse yourself from matters pertaining to Madison Guaranty Savings and Loan.

Now, however, based upon your meeting with White House officials on this subject, presumably after receipt of my letter, your resignation from all responsibilities at the RTC appears to be the only ethical option in order.

Sincerely,

James A. Leach
Ranking Member

Enclosure

12996

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March 1, 1994

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

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the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

> "No employee shall engage in any action, which might result in, or create the appearance of ...
>
> (b) giving preferential treatment to any person;...
>
> (d) losing complete independence or impartiality;
>
> (e) making an RTC decision outside official channels; or,
>
> (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

> "(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:
>
> (1) Using public office for private gain;
>
> (2) Giving preferential treatment to any person;
>
> (3) Impeding Government efficiency or economy;
>
> (4) Losing complete independence or impartiality;
>
> (5) Making a Government decision outside official channels; or
>
> (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

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> "(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

> "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,

James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

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Inventory

D'Amato:

- Facsimile Transmission: (4/7/94) Peter E. Knight to Doug Nappi-**Madison Guaranty Savings & Loan: Chronology of Significant Events**
- Memo: (4/4/94) Peter E. Knight to Doug Nappi-**Madison Guaranty Documents**
- Memo: (3/16/94) Peter E. Knight to Doug Nappi-**Madison Guaranty Documents**
- Letter: (3/11/94) John E. Ryan to Alfonse M. D'Amato
- OGR Correspondence Referral: (Doc. Date 3/6/94) Alfonse M. D'Amato-**Questions regarding "heads-up" briefings Roger Altman abd. Jean Hanson gave White House Officials. Was Ms. Hanson at February 24th Hearing? Why didn't she brief committee members regarding meetings?**
- Memo: (2/23/94) Casey Carter through Peter E. Knight to Doug Nappi-**Ethics Material**
- Memo: (2/23/94) Peter E. Knight to Doug Nappi-**Outside Counsel Conflicts of Interest**
- Letter: (2/23/94) John E. Ryan to Alfonse M. D'Amato
- Letter: (2/23/94) Peter E. Knight to Alfonse M. D'Amato
- Letter: (2/23/94) John E. Ryan to Alfonse M. D'Amato
- Letter: (2/18/94) Peter E. Knight to Alfonse M. D'Amato
- Letter: (2/1/94) Roger C. Altman to Alfonse M. D'Amato

Leach:

- Letter: (5/2/94) James E. Barker, Acting Deputy General Counsel to James A. Leach-**Re: Freedom of Information Act Appeal No. RTC-94-A014**
- Attachment: (5/2/94) to James E. Barker Letter of 5/2/94 to James A. Leach- **Madison Guaranty Document Index, Institutional Case Listing & Participations Purchased**
- OGR Correspondence Referral: (Doc. Date 4/11/94) James A. Leach **FOIA Re: Appeal of RTC [Denial] of Request for [Documents] Re [Madison Guaranty] S&L, McCrory, AK (Resolved). [Reports], [Memos], Minutes [Telephonic] Reports, [E-Mail], [Contractor], Agreements. [Important]**
- Memo: (4/4/94) Peter E. Knight to Joe Seidel-**Madison Guaranty Documents**
- OGR Correspondence Referral: (Doc. date 3/31/94) James A. Leach **Rebuttal of [Ryan] & [Kulka] Letter Re: [PLS] and [Madison] Concern Over Reorganization & Reduction in Independence of Regional Investigative Units**
- Letter: (3/30/94) John E. Ryan and Ellen B. Kulka to James A. Leach
- Letter: (3/30/94) John E. Ryan to James A. Leach
- Statement: (3/24/94) James A. Leach before the House of Representatives
- Letter: (3/24/94) John E. Ryan to James A. Leach
- OGR Correspondence Referral: (Doc. date 3/23/94) James A. Leach **Access to all RTC documents related to Madison Guaranty S&LA, McCrory, AR (resolved), and Whitewater, to**

prepare for hearings. E-Mails, Meetings, Reports, Memos (Names), Field

- Facsimile Transmission: (3/23/94) James A. Leach to John E. Ryan **Letter from James A. Leach to John E. Ryan**
- Letter: (3/22/94) Stephen E. Potts, Director, Office of Government Ethics to James A. Leach
- Letter: (3/21/94) John E. Ryan to James A. Leach
- Facsimile Transmission: James A. Leach to Roger C. Altman
- Memo: (3/16/94) Peter E. Knight to Joe Seidel-**Madison Guaranty Documents**
- Letter: John E. Ryan to James A. Leach
- Letter: James A. Leach to John E. Ryan
- Letter: Various to Henry B. Gonzalez
- Memo: (3/10/94) Peter E. Knight to Joe Seidel **PLS Information Request**
- Letter: (3/4/94) John E. Ryan to James A. Leach
- OGR Correspondence Referral: (Doc. Date 3/1/94) James A. Leach **Meeting with White House Officials on subject of Madison Guaranty. Altman should resign from all responsibilities at the RTC-is only ethical option in order [Important]**
- OGR Correspondence Referral: (Doc. Date 3/1/94) **Further correspondence regarding interim CEO, Roger Altman, and his recusal of Madison Guaranty S&LA, McCrory, AR (resolved). Has CEO's conduct violated Federal ethics guidelines? [Important]**
- Facscimile Transmittal: (3/1/94) James A. Leach to Art Kusinski **Letter from James A. Leach to Messrs & Madam Bernard Nussbaum, Stephen Potts, Jean Hanson, Art Kusinski**
- Letter: (2/23/94) Jean E. Hanson to James A. Leach
- Letter: (2/7/94) John E. Ryan to James A. Leach
- Letter: (2/1/94) Roger C. Altman to James A. Leach
- Letter: (12/22/93) Roger C. Altman to James A. Leach

Gonzalez:

- Letter: (3/21/94) Henry B. Gonzalez to Thomas S. Foley
- Letter: (3/21/94) Henry B. Gonzalez to James A. Leach
- OGR Correspondence Referral: (Doc. Date 3/14/94) Henry B. Gonzalez **Semiannual March 24 TDPOB Hearings. Any matters not pertinent to section 21a(K)(6) of the FHLB Act, such as Madison Guaranty are not to be answered at hearing. Focus on funding, transition, reform [Important]**
- Letter: (3/10/94) Henry B. Gonzalez to John E. Ryan
- Letter: (3/9/94) Henry B. Gonzalez to James A. Leach
- OGR Correspondence Referral: (Doc. Date 3/3/94) Henry B. Gonzalez **Hearing March 24, 1994 Re [Semiannual] Appearance of Thrift Depositor Protection Oversight Board. Goldman Sachs Contract Investigation, [Homefed], Transition, Prosecution, Crime [Report] [Important]**

Other Members:

- OGR Correspondence Referral: (Doc. Date 4/20/94) Chairman Don Nickles **Johnston, Kelly D., [Republican] [Policy] [Committee], United States Senate, Requests A Set Of [Documents] The RTC Recently Released Re [Madison] [Guaranty] S&LA, McCrory, AK (Resolved and [Whitewater]**
- Memo: (4/4/94) Peter E. Knight to Tim Mitchell **Madison Guaranty Documents**
- Memo: (3/30/94) Casey Carter to John Linko **Madison Guaranty S&L Documents**
- Facsimile Transmittal: (3/29/94) John L. vonSeggern to Casey Carter **Letter From Jonathan L. Fiechter, Acting Director, OTS to James A. Leach**
- Memo: (3/16/94) Peter E. Knight to Tim Mitchell-**Madison Guaranty Documents**
- Letter: (3/7/94) Donald W. Riegle, Jr. to Roger C. Altman
- Memo: (3/7/94) Peter Knight to Maggie Fisher-**Information Request on Rose Law Firm**
- OGR Correspondence Referral: (Doc. Date 3/4/94) Lauch Faircloth **Fee bill copies for the Rose Law Firm regarding Madison Guaranty S&LA, McCrory, AR (resolved), specifically, those of Webster Hubbell.**
- OGR Correspondence Referral: (Doc. Date 2/7/94) Hon. David Pryor **Question from the Senator. Has the RTC filed a civil suit against institutions of individuals involved on the attached list? Madison, Horizon, Alamo, Colonial etc. [Important] [RLS]**
- Letter: (2/1/94) Roger C. Altman to Robert J. Dole
- Letter: (12/29/94) William M. Dudley to Connie Mack
- Letter: (11/9/93) Peter E. Knight to Dale Bumpers
- Letter: (11/9/93) Peter E. Knight to David Pryor

Other Inquiries:

- Letter: (2/2/94) Dennis M. Cavinaw to Ray Thorton
- Letter: (1/7/94) Peter E. Knight to Olympia J. Snowe
- Letter: (11/16/93) Dennis M. Cavinaw to William S. Cohen
- Letter: (11/3/93) Dennis M. Cavinaw to George J. Mitchell
- Letter: (11/3/92) Dennis M. Cavinaw to David Pryor
- Letter: (5/13/92) David Pryor to Randall McFarlane
- Letter: (5/27/92) Dennis M. Cavinaw to Christopher J. Dodd
- Letter: (4/8/91) Randall McFarlane to David Pryor

Other Agencies:

- Fax: (3/1/94) John L. von Seggern to Peter E. Knight
- Letter: (3/17/94) Jonathan L. Fiechter to Donald W. Riegle, Jr.
- Letter: (3/15/94) Andrew C. Hove to Lauch Faircloth
- Fax: (3/11/94) John L. von Seggern to Peter E. Knight
- Letter: (3/10/94) James A. Leach to Robert B. Fiske, Jr.
- Letter: (2/8/94) Andrew C. Hove to Alfonse M. D'Amato
- Letter: (2/8/94) Jonathan L. Fiechter to James A. Leach

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- Letter: (2/3/94) Robert B. Fiske, Jr. to John E. Ryan
- Letter: (1/28/94) Various to Donald W. Riegle, Jr.
- Letter: (1/25/94) Various to Henry B. Gonzalez
- Letter: (12/23/93) Richard C. Stiener to Donna Cunninghame
- Letter: (1/23/94) Carl F. Gamble to G. Allen Carver, Jr.- **FOIA Requests, Madison Guaranty Savings and Loan**
- Letter: (1/4/94) G. Allen Carver, Jr. to Carl F. Gamble
- Letter: (1/4/94) Marshall R. Williams to John C. Binkley and Philip J. Lindenmuth
- Letter: (12/22/93) Jonathan L. Fiechter to James A. Leach
- Letter: (12/22/93) Andrew C. Hove to James A. Leach
- Letter: (12/17/93) Marshall R. Williams to John C. Binkley and Philip J. Lindenmuth

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BACKGROUND ON QUESTIONS COMING FROM COMMITTEE MEMBERS RELATING TO MADISON

- At the present time the RTC is cooperating with the investigations of individual members (Rep. Leach/Sen. D'Amato) to the fullest extent possible under the law.

- Absent a request from the Committee, the RTC is limited with respect to three general areas:

  - information regarding the personal and corporate financial records in the its possession;

  - information relating to criminal investigations; and

  - material relating to possible civil litigation.

- In order to change this approach, the RTC needs clarification from the Chair as to whether a request during the hearing from an individual member constitutes a formal request by the Committee.

- If the Committee makes the request, the RTC could provide information, in consultation with the Independent Counsel, providing there are appropriate safeguards to protect the confidentiality and preserve the privileged nature of the information disclosed.

  - The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under a threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:

    - information regarding Southwest Savings litigation to Senate Banking under a promise of confidentiality;

    - information regarding Homefed to House Banking under a threat of subpoena; and

    - certain authority to sue memoranda to the House Subcommittee on Civil Service under a promise of confidentiality by the chairman of the Subcommittee, after the original request by Congresswoman Schroeder for such information was declined.

  - In the absence of such safeguards the RTC would have to consider all its options in order to avoid jeopardizing its statutory obligations.

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DONALD W. RIEGLE, JR. MICHIGAN, CHAIRMAN

PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JIM SASSER, TENNESSEE
RICHARD C. SHELBY, ALABAMA
JOHN F. KERRY, MASSACHUSETTS
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BARBARA BOXER, CALIFORNIA
BEN NIGHTHORSE CAMPBELL, COLORADO
CAROL MOSELEY-BRAUN, ILLINOIS
PATTY MURRAY, WASHINGTON

ALFONSE M. D'AMATO, NEW YORK
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CHRISTOPHER S. BOND, MISSOURI
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WILLIAM V. ROTH, JR. DELAWARE
PETE V. DOMENICI, NEW MEXICO

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 25, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

I am writing to you in connection with the letters of January 11, 1994, to Attorney General Janet Reno and yourself, expressing the grave concern that I and a number of my colleagues have regarding the expiration of the applicable statutes of limitations with respect to possible wrongdoing at Madison Guaranty Savings and Loan ("Madison"). We urged that voluntary agreements tolling the statute of limitations be sought with all the relevant parties. That letter addressed the urgent need for immediate action with respect to any violations that may have occurred, since the applicable statute of limitations may expire as soon as March, 1994.

More than two weeks have passed since we raised this vital issue. In his public comments, Special Counsel Fiske has already demonstrated his recognition of, and sensitivity to, the applicable criminal statutes of limitations.

I have yet to be apprised of what action, if any, the RTC has taken to ensure that the applicable civil statute will not expire. The American people have the right to know if any wrongdoing took place in connection with Madison. It is equally important that the rights of the American people to obtain a full accounting against wrongdoers be preserved.

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The RTC should do all in its power to protect the American taxpayer by making a definitive interpretation of precisely when the civil statute of limitation will expire, and then take action to voluntarily seek agreements from potential parties to RTC-initiated legal actions. Should the statute of limitations run, any findings that the RTC makes will be meaningless--there will be no hearing and the American people will be left without complete redress.

Members of the Banking Committee staff have discussed the need for meaningful action with representatives of the RTC. My staff was informed that the RTC had not yet made a final analysis with respect to the expiration of the statute of limitation. They were also informed that no response was immediately available, more than two weeks after this issue was raised--this is inconceivable and unacceptable.

In light of the RTC's failure to respond to these concerns for over two weeks, I am compelled to write again to ascertain what action the RTC has taken, so that I may consider alternate avenues that I can pursue in order to protect the interest of the American people with respect to this matter. I can see no reason for further delay on your part. Please provide me with your conclusions as to the application of the relevant statute of limitations with respect to the Madison situation immediately.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican
Senate Banking Committee

AMD:dn

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

On January 11 and January 25, 1994 you wrote to me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 18, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
  and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

This letter is in response to your letter of February 8 requesting the number of times the RTC's Chief Executive Officer has recused himself from involvement in matters before the RTC; a summary of the grounds that led to the recusal decision; and the RTC's policies or guidelines pertaining to recusals.

During his tenure, Albert V. Casey, former Chief Executive Officer, recused himself by memorandum to the RTC's Ethics Office from three matters that came before the RTC. Mr. Casey did not state the grounds that led to two of his recusal decisions. Under 12 CFR 1605 an employee may recuse himself or herself from matters in which the employee believes he or she may have a conflict of interest. In the third instance, Mr. Casey recused himself from any RTC matters involving a member of his immediate household.

Mr. Casey further had executed an Ethics Agreement in which he committed to recusing himself from any entity in which he held a financial interest, as well as any other interest derived from pensions of five corporations. Mr. Casey also disqualified himself from participating in any RTC matter effecting his five creditors should such a matter come before him.

During his tenure, Roger C. Altman, Interim Chief Executive Officer, has not needed to recuse himself from any matter before the RTC. Mr. Altman has recused himself from matters that could have a direct and predictable effect upon his financial interest, his former partners, or clients, should such matters come before him as the RTC's CEO.

801 17th Street, N.W. Washington, D.C. 20434

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The RTC's policies and guidelines pertaining to recusal are founded in the criminal statute and the standards of conduct regulations. Specifically, 18 USC 208, 5 CFR 2635, and 12 CFR 1605, as amended, provide the basis for an employee's recusal from any official government matter which could result in a conflict of interest or an appearance thereof. Employees may recuse themselves simply by not participating in a matter at such time that the matter, in which they may have a conflict, comes before them. Although employees are not legally required to put their recusals in writing, we encourage employees to document recusals either by internal memorandum or by electronic mail. In addition, during our review of financial disclosure forms, our Deputy Ethics Counselors (DECs) issue disqualification letters to employees on matters in which there may be an obvious and real conflict of interest, should such a matter come before them. This is done to ensure that the employees are in compliance with the criminal statutes or standards of conduct regulations. These disqualifications would include certain financial interests, extensions of credit in excess of $10,000, and prior employment.

Disqualifications are usually between the employee, his or her DEC, and the RTC's Ethics Office. Supervisors or other management officials are usually not made aware of these disqualifications until such time as a conflicted matter arises with the conflicted party. The conflicted employee's supervisor must then assume responsibility for the matter or reassign the matter to another individual at or above the level of the conflicted employee. Notice of this reassignment is made known to those who have a need to know.

Both Mr. Casey and Mr. Altman informed members of the RTC's Executive Committee and the RTC's Secretary of their recusals.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

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Bob Dole

NEWS U.S. SENATOR FOR KANSAS
FROM: SENATE REPUBLICAN LEADER

FOR IMMEDIATE RELEASE
Monday, February 28, 1994

CONTACT: CLARKSON HINE
(202) 224-5358

ALTMAN CONFLICT

Altman's Whitewater-Madison Revelation Underscores Need for Congressional Hearings

Imagine this: Ronald Reagan, as Governor of California, becomes a 50-50 partner in a real estate deal with the owner of a California savings and loan. The S&L goes under, is seized by federal regulators, and a series of criminal and civil investigations are initiated by federal regulators.

Governor Reagan becomes President Reagan. He appoints a close personal friend and top campaign official, Jim Baker, to head the independent agency charged with overseeing the S&L industry and with bringing civil and criminal actions against S&L wrongdoers.

Press reports suggest that the President may be indirectly implicated in a civil suit brought against the California S&L by the supposedly independent federal agency. As the expiration date for the civil statute of limitations approaches, Mr. Baker meets at the White House with Ed Meese, Mike Deaver, and other White House political officials to discuss "the status" of the agency's investigation. The White House meeting is shrouded in secrecy, only to be revealed weeks later because of congressional prodding.

Of course, this is all fiction. But, it's fair to say that if these events had indeed occurred during the Reagan administration, the expressions of outrage in the press, and the clamor for congressional hearings, would have shot off the political Richter scale.

The Altman Conflict & Belated Recusal

Last Thursday, Roger Altman, a college classmate of President Clinton and the acting C.E.O of the supposedly independent Resolution Trust Corporation, revealed for the first time that he sought out a meeting with White House officials, allegedly to offer a "heads up" on the so-called Madison Guaranty statute of limitations issue. According to Mr. Altman's own account, he didn't even seek a meeting with David Kendall, President Clinton's personal attorney, but rather with White House "political" officials--Bernard Nussbaum, Harold Ickes, and Margaret Williams, the Chief of Staff for the First Lady.

With the exception of the New York Times and the Washington Times, and today the Washington Post, the press reaction to the Altman revelation--and the glaring conflict of interest it describes--has been muted at best. In fact,

(more)

USA Today reported that the Altman meeting was "minor" and there was probably "nothing improper" about it. Apparently, Mr. Altman didn't buy into this benign description, since he finally recused himself from the Madison matter last Friday.

Need for Hearings

Mr. Altman's shocking revelation underscores the need for full congressional hearings on the Madison-Whitewater affair. As the New York Times editorialized yesterday: "Senator Donald Riegle, the Chairman of the Senate Banking Committee, needs to step up his Committee's oversight activities....Opposition leaders are right when they say that a Republican White House that so recklessly meddled in the Justice Department, the R.T.C. and other agencies would be shelled with endless congressional investigations." Unquote.

The bottom line is: the American people now know about Mr. Altman's unseemly meeting with White House officials precisely because Banking Committee Republicans used the opportunity of an R.T.C. oversight hearing to ask Madison-related questions. If there had been no hearing, it's unlikely this information would have surfaced anytime soon. And it's clear that Mr. Altman recused himself only because of the negative publicity his meeting inspired.

Other Questions

The Altman revelation also raises other important questions: did Mr. Altman have any contacts with the FDIC while the FDIC's legal division was preparing its "conflicts-of-interest" opinion regarding the Rose law firm? If so, what were the nature of these contacts? Has Mr. Altman had any discussions with Webster Hubbell, a former partner of the Rose law firm and now Associate Attorney General, regarding the RTC's criminal referrals on Madison and the RTC's pending civil investigation? And has Mr. Hubbell himself had any contacts with officials at the FDIC, the RTC, or the White House about any element of the Madison-Whitewater affair?

Why did White House Counsel Bernard Nussbaum meet with Mr. Altman in the first place? Surely, he was aware of the impropriety of such a meeting. Has Mr. Nussbaum been in touch with the RTC, the FDIC, or the Justice Department about Madison-Whitewater?

You know you're heading in the right direction when tough questions are responded to not with substantive answers, but with personal attacks. Unfortunately, David Wilhelm, the Chairman of the Democratic National Committee, took this low-road approach when he fired off a letter last Friday personally attacking the integrity of Senator D'Amato, the ranking member of the Senate Banking Committee.

If Mr. Wilhelm believes these bullying tactics will somehow intimidate congressional Republicans, I have some bad news for him: they won't. We will continue to ask the tough questions until the American people get the full accounting of Whitewater that they deserve.

###

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.,
Washington, D.C. 20434

Dear Mr. Altman:

The RTC has acknowledged that the statute of limitations for any civil action arising from the failure of Madison Guaranty will run out on February 28. After February 28, the RTC will not be able to recover any more of the $47 million the taxpayers were forced to pay to close Madison.

The RTC took over Madison in 1989. Presumably, the RTC has thorough knowledge of the institution, the reasons for its failures and the individuals and activities that contributed to its demise. The RTC made a criminal referral to the Justice Department perhaps as early as October, 1992 based on its extensive information and investigation.

The RTC's inaction on the civil side is therefore even more disturbing. With the civil statute of limitations about to run out, the RTC must take action immediately. Unless the RTC takes actions, the rights of the American people to justice and financial recovery will be forfeited to a legal technicality.

Your February 1 letter offered assurances "that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison." Moreover, you stated that the RTC "will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations."

Beyond this general response, we are seeking specific answers to the following questions:

◆ What is the RTC doing to obtain voluntary agreements to extend the statute of limitations from all potential defendants in the Madison/Whitewater matter beyond February 28, 1994?

13072

- In the event the RTC cannot obtain tolling agreements, will the RTC file appropriate civil claims against all individuals whom the RTC has reasonable cause to believe may be liable to the United States prior to February 28, thereby tolling the statute and allowing time for refinements to the original complaint?

- Will the RTC provide us with a complete report on the status and scope of its "thorough review" as soon as possible?

Time is of the essence. The RTC has had years to investigate Madison Guaranty; it should have complete knowledge of the situation and adequate legal foundation for any civil suits. It has only weeks left to act and it should do so without further delay.

We must respectfully request that you respond fully and promptly to this letter.

Sincerely,

Alfonse D'Amato

Don Nickles

Trent Lott

Strom Thurmond

Connie Mack

13073

Richard B. Lugar

Conrad Burns

Larry Craig

Dirk Kempthorne

Jesse Helms

Kit Bond

Paul Coverdell

Mitch McConnell

Nancy Landon Kassebaum

Dan Coats

Chuck Grassley

Bob Smith

Larry Pressler

Jim Jeffords

Ted Stevens

Malcolm Wallop

Orrin Hatch

John Warner

Bob Packwood

13075

RT-12658

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

13080

RT-12659

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable William F. Clinger, Jr.
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Clinger:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

/3081/

RT-12662

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Robert H. Michel
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Leader:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

13084

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

DRAFT

The Honorable Lauch Faircloth
United States Senate
Washington, D.C. 20510

Dear Senator Faircloth,

This is in response to your letter of February 8, 1994 concerning the RTC's efforts relating to possible civil litigation resulting from the failure of Madison Guaranty.

Your letter makes the statement that, "The RTC's inaction on the civil side is ....disturbing." I want to reiterate what I said in my letter of February 1, 1994, which is that the RTC "is conducting a thorough review of the failure of Madison." While your letter characterizes this as a "general response", I must point out that it is inappropriate for me to address at this time any specifics relating to this matter.

It is standard operating procedure not to discuss any matter relating to the review of potential civil claims of any institution. While it would be inappropriate for me to provide any information relating to the status of our review at this point, I can assure you that the RTC is prepared to make a full public accounting of the handling of civil matters under the purview of the RTC when it is appropriate to do so.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

13085

cc Mr. Ryan
Ms. Kulka
Mr. Hinden

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

DRAFT
from Peter Knight
2/9/94

– response to the 41 Senators who signed the letter to Dep Secrety Altman

The Honorable Lauch Faircloth
United States Senate
Washington, D.C. 20510

Dear Senator Faircloth,

This is in response to your letter of February 8, 1994 concerning the RTC's efforts relating to possible civil litigation resulting from the failure of Madison Guaranty.

Your letter makes the statement that, "The RTC's inaction on the civil side is ....disturbing." I want to reiterate what I said in my letter of February 1, 1994, which is that the RTC "is conducting a thorough review of the failure of Madison." While your letter characterizes this as a "general response", I must point out that it is inappropriate for me to address at this time any specifics relating to this matter.

It is standard operating procedure not to discuss any matter relating to any institution that is under active consideration with respect to possible litigation. I am sure that you understand that to do otherwise could jeopardize the RTC's efforts to make civil recoveries on behalf of the American taxpayers.

While it would be inappropriate for me to provide any information relating to the status of our investigation or internal deliberations at this point, I can assure you that the RTC is prepared to make a full public accounting of the handling of civil matters under the purview of the RTC when it is appropriate to do so.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, N.W. Washington, D.C. 20434

13086

Question:

Why are you unwilling to recuse yourself?

Answer:

- First, your obvious point is that I should not play any role in the RTC's eventual decision to pursue a civil claim, or not pursue one, in the Madison Guaranty matter. Well, I probably will not be doing so.
- My appointment as interim CEO under the Vacancy Act expires on March 30, 1994. I will have no role with the RTC beyond that date unless a nomination for permanent CEO has been sent to Congress. That is unlikely. Plus, the RTC General Counsel has advised me that any recommendations she makes on Madison Guaranty will not be formulated before that time. I will, therefore, most likely have no role in the RTC's decisions on the matter.

Question:

You still should recuse yourself. Why don't you?

Answer:

- As I said, the point is probably moot. Most likely, I'll have no role in any RTC decisions on pursuing a civil claim in the Madison matter.
- Also, I consulted both with the relevant RTC ethics officer and with the relevant Treasury ethics officer.
- Both ethics officers advised me that there was no requirement for a recusal in this matter. The specific statutes and regulations involved do not define this as a case requiring recusal.
- Both ethics officers advised me that any decisions on recusal normally would be made when a matter is ready for decision. The Madison matter, as I've said, is not ready.

Question:

Doesn't your relationship with The President and Mrs. Clinton require a recusal? Isn't there the appearance of a conflict of interest?

Answer:

- First, as I said, I'll probably not be playing any role in this matter.
- Second, I'm playing no role whatsoever right now in the RTC's investigation of this case. I've seen no documents. I've had no conversations at all on where the investigation stands. I have no idea what recommendations the General Counsel will reach. They probably will be completed after I've left.
- Third, I might point out the RTC referred this matter to the Justice Department for possible criminal review last October. I was also interim CEO at that time.
- I was advised at that time that such a review was being conducted and that a decision on referral to Justice would be made.

Question:

Were you asked how it should be handled?

Answer:

- As certain Treasury and RTC officers will attest, I took the position that normal procedures should be followed. If such a decision on referral was typically made at the regional office level, my view was that it should be made that way in this matter.

Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

- I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.
- The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.
- We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.
- We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.
- Jean Hanson did check and was told "in due course." I said "fine".

Question:

Why did you brief the White House on those processes?

Answer:

- Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

- Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

- The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Question:

Has the White House attempted to influence your decision on these matters?

Answer:

- No. It is understood that the RTC must complete the task that it has been given and, of course, The White House respects the independence of the RTC.

Question:

Are you a close friend of the Clintons?

Answer:

- I know them well, yes.

Question:

Do you consider yourself a FOB?

Answer:

- Yes, as I understand that term to be used.

Question:

Do you think your relationship with The President should disqualify you from playing any role in Madison?

Answer:

- As I said, I probably won't be playing any role. If I were to play a role my answer would be no. When I was advised that a referral to Justice was likely, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.
- That would be my stance on Madison. If I received a clear recommendation on it from the chief legal officer, I'd follow it.
- I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

6 (con't.)

Question:

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

Answer:

- No.

Question:

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

Answer:

- We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be discussed.

6a

Question:

Ricki Tigert chose to recuse herself. You didn't. What's different about the two cases?

Answer:

- I can't comment about Ricki Tigert's decision. I haven't discussed it with her. I don't know the FDIC procedures which pertain to it. It's not my role to speculate on her decision.

Question:

Have you issued any instructions to RTC staff on this investigation? What were they?

Answer:

- I advised the Deputy CEO and the General Counsel of the RTC that I expected that all standard procedures would apply to the RTC's handling of this matter. Other than that, I have issued no instructions.

Question:

Have any other officials of the Treasury Department been involved in any discussions relating to the RTC's handling of Madison or related matters?

Answer:

- I and a very limited number of my Treasury staff have been briefed generally by RTC staff on a variety of issues related to the RTC's review of the Madison matter. Topics include:
  - RTC procedures related to document requests;
  - the causes of action that might be available to the RTC that fall within the extension of the statute of limitations contained in the RTC Completion Act;
  - the normal criteria applied by the RTC in seeking an Authority to Sue, tolling agreements with potential defendants, etc.; and,
  - the applicable statute of limitations and a chronology of the Madison matter beginning in 1989;
- No discussions of the actual decisions to be made by the RTC as to whether any claims exist and should be pursued against specific persons in connection with Madison have been held by me or other Treasury staff.

8a

Question:

Why did the Treasury people participate?

Answer:

- **From the outset of my appointment I involved a limited number of Treasury staff to provide support as necessary because there was no permanent General Counsel and no Deputy CEO, and more of my attention was required.**

Question:

What discussion with RTC staff have you personally had on Madison?

Answer:

- I have had some discussions with the Deputy CEO and General Counsel regarding the procedures being followed by the RTC. As I have repeatedly said, I have insisted that the RTC follow established procedures that are used in any other case when dealing with this matter.

9a

Question:

Are you typically briefed on specific PLS cases?

Answer:

- Not generally. But in this case I have received numerous inquiries from Members of Congress for information, which has required an understanding of the issues in order to adequately respond.

Question:

Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

Answer:

- The Treasury General Counsel to my knowledge has not been active in the Madison matter.
- The RTC's General Counsel has been directing its efforts and has counseled me about the procedures being followed in the investigation.

Question:

What discussions on Madison have you had with Secretary Bentsen?

Answer:

- I have had three brief discussions with Secretary Bentsen on matters relating to Madison.
- I alerted him that there was a possibility of criminal referrals being made in late September.
- In early February I described to him the process that the RTC was undertaking in connection with its review of Madison in light of the then impending February 28 deadline, and that I had received congressional inquiries on whether I would recuse myself from the matter.
- I told him that I was reserving judgment on the recusal.
- Somewhat later I told him that I was not inclined toward a recusal.

Question:

Why did you have those conversations?

Answer:

- To give him a "heads up" so that he would not be caught by surprise if he was to receive inquiries on these matters as Chairman of the Oversight Board.

Question:

What has he said to you about the Madison investigation?

Answer:

- Nothing.

Question:

Do you mean that he said nothing during your conversations?

Answer:

- Only that he appreciated the "heads up".

Question:

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison Guaranty?

Answer:

- I was advised the RTC had discussions with the Justice Department regarding the release of specific information contained in a criminal referral.
- The RTC regularly discusses such issues with Justice to ensure that RTC disclosure of information will not compromise any Justice investigation.

13a

Question:

Does Treasury have any documents relating to Vince Foster's death?

Answer:

- We recently received a Congressional request for such documents. Our search to date had identified several Bureau of Alcohol, Tobacco and Firearms and Secret Service documents.

Question:

What is the Department doing in response to that Congressional request?

Answer:

- We continue to search our files for responsive material. In addition, as you are aware, the jurisdiction of Independent Counsel Robert A. Fiske includes looking into the investigation of Mr. Foster's death. Accordingly, we have referred to the Independent Counsel the documents that we have located and have asked the views on whether they can be released.

Question:

- Why do those bureaus have documents related to the investigation of Mr. Foster's death?

Answer:

- ATF was asked by the Park Police to do laboratory analysis of physical evidence the Park Police had collected in their investigation of Mr. Foster's death. Secret Service generated documents in connection with their responsibility for physical security at the White House, including Mr. Foster's office.

13a (con't.)

Question:

Why don't you release them?

Answer:

- We have an obligation not to jeopardize an ongoing investigation. Although we believe that, at least a portion of them will not be relevant to the investigation, Mr. Fiske is conducting the investigation and it is his decision what documents can be released. We hope that he will give a prompt reply to our request that he make conclusions about these documents.

Question:

- Secretary Altman, has the RTC been in contact with the Independent Counsel Robert Fiske? Have you participated in these conversations?

Answer:

- I understand that there have been several telephone conversations with Mr. Fiske and his staff and RTC staff regarding various procedural matters.
    - I have not participated in any of those discussions.

Question:

Tell us about the documents which the RTC provided to Mr. Fiske.

Answer:

- The RTC is cooperating fully with the Independent Counsel. I am advised that in order to protect Mr. Fiske's investigation I should not comment on documents produced to him.

Question:

Who at the RTC has access to these documents?

Answer:

- I only know that the RTC's General Counsel has access. Beyond that I cannot comment.

Question:

What is the RTC doing to get those documents it has previously provided the Justice and Mr. Fiske back?

Answer:

- I understand that the RTC maintains copies of any documents in its possession which it has provided to the Independent Counsel.

Question:

Are there other documents which the RTC needs which it can't get?

Answer:

- The RTC is going to investigate the facts, and seek all documents which are relevant. Obviously it wants to make litigation decisions on the best information in existence and will do whatever is necessary in order to obtain the information it needs.

16a

Question:

Why shouldn't the investigation of Madison be done solely by the Independent Counsel appointed by the Attorney General instead of the RTC conducting its own investigation?

Answer:

- The RTC is required by law to maximize the recoveries of assets from failed institutions in RTC conservatorships or receiverships and the RTC is without authority to delegate its responsibilities in this matter.

Question:

Secretary Altman, has the RTC investigated the Rose Law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC?

Answer:

- I understand that the General Counsel received a report prepared by the RTC Office of Contractor Oversight. The report was presented to the FDIC during its investigation of the Rose Law Firm.
- With respect to the Office of Contractor Oversight report, the General Counsel has also advised me that the report does not contradict the information reviewed and the conclusions reached by the FDIC.
- The FDIC, as exclusive agent for the FSLIC, was the original conservator of Madison and as such, retained the Rose law firm not the RTC. As you know, the FDIC has investigated the circumstances arising out of that relationship and has released the report. Perhaps Acting Chairman Hove might like to briefly expand upon the report.

NOTE: **If questioned about other RTC institutions where the Rose Firm was hired -- We can get that for the record.**

Question:

Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater?

Answer:

- I only know what I read in the newspapers.

Question:

Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?

Answer:

- To date the RTC has not received a request from the Committee and is cooperating to the fullest extent possible under the law with the investigations by individual Members of Congress.

19a

Question:

Haven't you refused to provide specific information to members of the Committee and their staffs which they have advised you is extremely important to their carrying out of their duties? Why has the RTC taken the position that an individual Member of Congress only has the standing of an average citizen when making requests of the agency for information?

Answer:

- First, let me say that the RTC has attempted to cooperate as fully as possible under the law with document requests by individual Members of Congress.
- We have provided volumes of information to individual members of Congress regarding Madison Guaranty. We have sent 6,500 pages of material to Senator D'Amato and have been providing documents to Congressman Leach's staff since late December of last year for a total of 13,000 pages.
- The RTC has taken the position that requests for information from individual Members of Congress have the same standing as FOIA requests and are subject to the same exceptions. There is no credible legal theory or authority to the effect that the law is otherwise.
- Providing privileged information to an individual member of Congress would likely waive all applicable privileges and could result in other violations of law.
- RTC's position is consistent with that of other agencies and of the Department of Justice.
- We are most concerned that we not take steps which would impair the RTC's and the Independent Counsel's ability to carry out their responsibilities or violate relevant law.

19a (con't.)

Question:

What are the problems with releasing all the requested documents to individual Members of Congress?

Answer:

- Absent a request from the Committee, the RTC is limited in what it can provide to individual Members of Congress in the following areas:
    - Information regarding the personal and corporate financial records in its possession;
    - Information relating to criminal investigations;
    - Information which is privileged; and,
    - Material relating to possible civil litigation.
- Release of these types of information to individual Members of Congress could jeopardize the governments's ability to bring and subsequently prosecute both civil and criminal matters.
- In addition, the release of certain information could be a violation of the Privacy and Trade Secrets Acts that in turn would lead to possible liability to the government official responsible for their release and to the government as well.

Question:

As a Committee member (Minority Member) and as participant in this hearing, I am formally requesting that you supply the material previously requested (by Rep. Leach/Sen. D'Amato).

Answer:

- As previously stated, it is the RTC's view that a request from an independent member of a committee does not constitute a request by the committee.
- **The RTC is in something of an awkward position. Clarification really should be provided by the Committee as to whether a request during the hearing from an individual member constitutes a formal request by the Committee as part of this hearing.**

NOTE: **You should be aware that the second response could antagonize Senator Riegle.**

Question:

As the Chairman of this Committee, I am requesting that the RTC provide the information requested to the majority and minority staffs of this Committee.

Answer:

- The Justice Department and the Independent Counsel, Mr. Fiske, has requested that with respect to Madison, the RTC make no information available about criminal referrals without its consent.
- The RTC, in addition to its obligations to comply with the law the RTC is deeply concerned about the provision of information which could have a negative impact on its investigation or litigation of any matter.
- I would also request on behalf of the RTC that appropriate safeguards be implemented after consultation with the staff of the Committee to protect the confidentiality of information and to preserve the privileged nature of any information which might be disclosed.
- Mr. Chairman, the RTC will respond as to its position on this request expeditiously after consultation with the Independent Counsel and the Justice Department.

Question:

Has the RTC applied this policy for all document requests by individual Members of Congress?

Answer:

- The RTC's policy with respect to this type of matter is a non-partisan one. The RTC has treated Democrats similarly to Republicans. The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:
  - Information regarding Southwest Savings litigation requested by a majority member of the Senate Banking Committee. The information was disclosed only after the RTC received a [written] promise of confidentiality from the [Committee];
  - Information regarding HomeFed requested by the majority of the House Banking Committee. The Chairman of the Committee, in writing threatened to issue a subpoena for the requested material;
  - Information protected by the Privacy Act requested by a majority member of the House Subcommittee on Civil Service (Rep. Schroeder) was denied originally and released only after a promise of confidentiality by the Chairman of the Subcommittee.
- In the absence of such safeguards, the RTC would have to consider all its options in order to avoid jeopardizing its statutory obligations.

Question:

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee?

Answer:

- It is the policy of the RTC not to discuss criminal referrals on an institution specific basis;
    - All questions concerning criminal investigations should be directed to the Justice Department, and in the case of Madison Guaranty to Independent Counsel Robert Fiske.

Question:

What are the RTC processes for criminal referrals? What were the RTC processes which led to the decision in October to refer this to the Justice Department?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- It is standard RTC practice to review institutions for criminal activity sometimes even after the statute of limitations on civil claims has expired and to make criminal referrals where warranted. Those reviews are conducted in RTC field offices and referrals are made directly from the field offices to the appropriate U.S. Attorney's office.
- It is the policy of RTC Investigations to make criminal referrals where there is a reasonable basis to believe that a crime has been attempted or committed.

Question:

Were you told what names would be included in the referral?

Answer:

- Yes, I was told.

Question:

Who were they?

Answer:

- I cannot comment.

Question:

Who was involved in that decision?

Answer:

- I am not sure. Normally, referrals are made by the Criminal Coordinator working for RTC's Investigations unit in the field office.

Question:

When did the RTC first turn its attention to Madison?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- The RTC became responsible for resolving Madison's affairs on August 9, 1989.
- Madison Guaranty Savings was declared insolvent and placed in conservatorship on February 28, 1989.
- The Federal Home Loan Bank appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") to serve as Madison's conservator.
- By agreement between the FSLIC and the Federal Deposit Insurance Corporation ("FDIC"), the FDIC immediately became the Managing Agent for the Madison conservatorship.
- The FDIC managed the conservatorship until ("FIRREA") was signed into law on August 9, 1989.
- The FDIC remained the managing agent for the RTC until the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 became effective in December of 1991.

Question:

Who in the RTC was involved at the beginning?

Answer:

- I don't know.

Question:

- When did the Madison matter first come to the attention of the RTC's Washington office?

Answer:

- I don't know.

Question:

Why wasn't a claim pursued before the statute of limitations lapsed?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- The original statute of limitations for director and officer and other professional liability claims was not "permitted to lapse".

- The statutes of limitations for PLS matters in thrifts under RTC control were not permitted to expire without either filing appropriate civil actions, settling claims prior to filing or reaching a decision to close investigations because the dual criteria of viable and cost-effective claims could not be met.

- The decision not to pursue claims against former officers, directors, attorneys and appraisers for Madison was based on these factors.

- Madison filed suit against Frost and Co., its accountants, in 1988, and the government continued to pursue these claims. In 1991, the RTC settled with Frost.

Question:

Who made the decision to permit the original statute of limitations to expire?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- The investigations into all Madison professional liability matters, other than the audit failure case against Frost & Co., were closed by officials in the FDIC Legal Division responsible for RTC matters and by officials in the RTC Office of Investigations. (dual sign offs)
- The settlement of the audit failure case was approved by officials in the FDIC Legal Division responsible for RTC matters and by business officials of the RTC.

Question:

Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

Answer: **(ELLEN TO TAKE THIS QUESTION)**

- While an in-depth response concerning the actions taken by he RTC in connection with Madison must await a later date, let me provide you with a review of significant events:
    - The original statute of limitations for Madison civil claims expired in early 1992;
    - Before that date, the FDIC and subsequently the RTC pursued a civil claim against Madison's former auditors. This case was originally filed by Madison (the institution) prior to its failure and was successfully settled. Certain other litigation was also pursued.
- Despite the fact the statute of limitations for civil claims had expired in early 1992, the RTC has continued to assess Madison, as well as other institutions, as to whether criminal referrals should be made since the statute of limitations period for criminal charges is longer.
- With the enactment of the RTC Completion Act in December 1993, the statute of limitations was renewed with respect to a limited class of civil actions.
- The statute of limitations with respect to those civil actions extended in December 1993 was again extended as part of the recently enacted California Earthquake Relief Act. The statute of limitations expires on December 31, 1995.
- The review of whether any civil claims relating to Madison as well as other institutions are sound and cost effective is underway.

Question:

Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

Answer:

- Since these matters are under investigation, it would be inappropriate to comment on them at this time. Discussing specific information could materially impair both the civil and criminal investigations which are underway.

Question:

Had Congress not just extended these limitations, what would the RTC have done on Madison before the February 28 deadline?

Answer:

- Although it would not have been easy to complete this investigation in the time originally allotted in the RTC Completion Act, RTC was prepared to take the necessary steps to do the best job possible.

Question:

What is the RTC doing at this very moment to reach a decision on a civil claim?

Answer:

- Beginning in January 1994, the RTC commenced a new investigation of the claims revived by the Completion Act.
- It assembled a team of experienced in-house attorneys supervised by a Senior Counsel and Legal Division managers.
- Further, we hired outside counsel to assist us.
- We expect to make decisions about pursuing revived claims during 1994.

Question:

Who at the RTC is doing that work?

Answer:

- A team of in-house attorneys supervised by a Senior Counsel and Legal Division managers, as well as outside counsel.

Question:

Who is the outside counsel?

Answer:

- Pillsbury, Madison & Sutro.

Question:

When will a decision be reached?

Answer:

- I have been advised that the staff anticipates that decisions on pursuing specific claims should be made in 1994.

Question:

If the RTC were to file a claim in court against the Clintons, how would that work? What would the RTC seek, etc.?

Answer:

- The RTC would follow its normal procedures if it decides to file a claim against anyone. I have instructed the RTC to handle this matter like it would any other.

Question:

In light of the problems with RTC PLS, why do you think that it can adequately investigate the Madison claims?

Answer:

- As I said in my testimony, we have made great progress in addressing the problems which have been identified with RTC PLS.
- We have greatly strengthened our management team with the recent appointment of Ellen Kulka, a very knowledgeable attorney in PLS matters, as the General Counsel of the agency.
- Many of the problems with PLS had to do with inadequate numbers of experienced staff, and I have taken steps to address these problems. RTC PLS now has the largest number of attorneys in its history, and I recently approved the creation of 4 new managerial positions to improve oversight of cases and investigations.
- The naming of an Assistant General Counsel for Professional Liability, pursuant to the RTC Completion Act, with responsibility for supervising both legal staff and investigative personnel in this area, will also improve coordination between these units.

Question:

Why did the Clinton Administration oppose a retroactive extension of the statue of limitations in the RTC Completion Act?

Answer:

- The Administration did not oppose the RTC Completion Act's extension of the statute of limitations.
- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.
- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

Question:

Did Madison Guaranty matters enter into that decision?

Answer:

- No.

Question:

- What is the RTC doing to ensure that claims for which the statute of limitations has been extended are being investigated?

Answer:

- The RTC legal staff is in the process of establishing procedures that will identify potential cost effective claims that have been extended by the RTC Completion Act. Such procedures will include review of prior RTC actions and, in some cases, additional investigations. Since over 400 institutions are involved, the process will likely take some time and resources to complete.

Question:

When did Madison Guaranty collapse?

Answer: (ELLEN TO TAKE THIS QUESTION)

- Madison Guaranty Savings was declared insolvent and placed in conservatorship on February 28, 1989.
- The Federal Home Loan Bank appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") to serve as Madison's conservator.
- By agreement between the FSLIC and the Federal Deposit Insurance Corporation ("FDIC"), the FDIC immediately became the Managing Agent for the Madison conservatorship.
- The FDIC managed the conservatorship until ("FIRREA") was signed into law on August 9, 1989.
- The FDIC remained the managing agent for the RTC until the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 became effective in December of 1991.

Question:

Who made the decision to put Madison into conservatorship?

Answer:

- The Federal Home Loan Bank Board.

Question:

Tell us about the federal oversight of Madison before the collapse.

Answer:

Madison was regulated by the Federal Home Loan Bank Board, the predecessor agency to the Office of Thrift Supervision. I am not in a position to answer questions about regulation of Madison before its collapse.

Question:

Why was McDougal permitted to loot the institution the way he did?

Answer:

I have no specific information about the operation of Madison in the 1980's.

Question:

Wasn't that a dereliction of oversight? Who was responsible?

Answer:

- The RTC does not and did not regulate financial institutions and therefore I am not in a position to respond.

Question:

- Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

Answer:

- In my role as Interim CEO of the RTC, it is inappropriate for me to speculate.

Question:

Have they acted in an ethical fashion?

Answer:

- As the interim CEO of the RTC I just cannot comment on this.

Question:

Aren't there, at the very least, appearances of impropriety on their part?

Answer:

- As Interim CEO of the RTC, it would be most inappropriate for me to comment.

Question:

What should be done if it is ultimately determined that laws were broken?

Answer:

- If the RTC's investigation determines that an individual or entity may have committed civil fraud, or intentional wrongdoing which resulted in substantial loss to the institution or unjust enrichment, then the RTC should do what is appropriate to recover from any such individual.
- As usual, any decision to seek a recovery must take into account the strength of the RTC's case and the cost effectiveness of any proposed litigation.

Question:

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

Answer:

- I do not know.

Question:

Will the Oversight Board play any role at all in RTC decisions on Madison?

Answer:

- No.

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

Info
John L + Joann
cc: Office Directors

January 14, 1994

MEMORANDUM

To: Vice Presidents
Assistant Vice Presidents

From: Jack Ryan
Deputy CEO

Re: Madison Guaranty Savings and Loan Association

The RTC has received numerous requests for information on Madison Guaranty Savings and Loan Association and related matters. Interim CEO Roger Altman is committed to responding to these requests as promptly and thoroughly as possible.

In order to assure that the RTC's response to requests on these matters is thorough, accurate, and timely, I have established a working group to coordinate the collection and distribution of all information and material responsive to the requests. The working group is comprised of James Dudine, William Collishaw, and Peter Knight.

I am sure that I can count on the full cooperation of you and your staff with the working group. Please see that this memorandum is distributed to the appropriate staff.

801 17th Street, N.W. Washington, D.C. 20434

To: Ellen Kulka
From: Peter E. Knight
Re: Outstanding items
Date: 2/22/94

The following are Madison-related items that should be addressed prior to Thursday's Senate Banking Committee hearing:

--The response to the 41 Republican Senators who want to know what the RTC is doing with respect to civil litigation.

--The following requests of Senator D'Amato:

--To provide the RTC's policy on outside counsel conflicts of interest;

--To provide a chronology of the RTC's involvement with Madison Guaranty;

--To provide recusal "letters and ethics agreements entered into" by Al Casey and Roger Altman;

--"A copy of any review that the RTC prepared, or had prepared, pertaining to potential conflicts-of-interest that may have existed in connection with the Rose Law Firm and Madison Guaranty"; and

--All documents pertaining to Madison, and an explanation of why the RTC refuses to provide any of them (letter of 2/18/94).

--A request from Senator Bond for a listing of conservatorships and receiverships which the Rose law firm represented on behalf of the RTC and a listing of defendants in these lawsuits. The Senator also requested a listing of cases in which the Rose law firm represented defendants in matters brought by the RTC.

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RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 16, 1994

MEMORANDUM TO: Jack Ryan
Ellen Kulka

MEMORANDUM FROM: Peter Knight

SUBJECT: Madison Guaranty
Outstanding Congressional Inquiries

Listed below are outstanding inquiries from Members of Congress relating to Madison Guaranty as of today's date. Attached is a listing of documents that have been provided to Cong. Leach and Senator D'Amato thus far.

REP. LEACH

2/3/94 requested whether RTC Interim CEO should recuse himself from decisions pertaining to Madison Guaranty. Response was due 2/7/94, draft with Legal.

2/16/94 requested documentation compiled for a PLS inquiry Gonzalez made 5/93. Peter Knight to discuss with Ellen Kulka.

Ongoing effort to continue to provide redacted material (including Madison Board Minutes) pursuant to FOIA Privacy Act.

SENATOR D'AMATO

1/13/94 requested chronology of events reflecting the RTC's involvement with Madison. Legal drafting chronology.

2/8/94 requested information regarding recusals by the Interim CEO and RTC's policies pertaining to recusals. The Ethics office is drafting reply for review by Ellen Kulka.

SENATOR FAIRCLOTH

2/8/94 Faircloth and 40 other Senators wrote regarding RTC efforts relating to possible civil litigation on Madison. Draft reply forwarded to Legal 2/9/94.

SENATOR BOND

2/15/94 requested information regarding the Rose Law Firm. Legal is presently compiling data.

801 17th Street, N.W. Washington, D.C. 20434

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
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February 17, 1994

MEMORANDUM TO: Ellen Kulka

MEMORANDUM FROM: Peter Knight

SUBJECT: Madison Guaranty
Senator D'Amato's Outstanding Inquiries

I received a call today from Senator D'Amato's staff. They want to know when to expect a response on two outstanding inquiries they have made. I want to give them an expected date of reply that can be met. Below are the inquiries.

On January 31, 1993 we met with the Senator's staff and were requested to provide them with a chronology of events reflecting RTC's involvement with Madison.

On February 8, 1994 Senator D'Amato wrote the RTC requesting the number of times Interim CEO Roger Altman had recused himself from matters before the RTC, a summary of grounds that led to the recusal decision, and the RTC's policies pertaining to recusals (copy attached).

Thank you.

801 17th Street, N.W. Washington, D.C. 20434

To: Peter E. Knight@OGR@RTCDC
Cc: Ellen B. Kulka@Legal-sc@RTCDC
Arthur J. Kusinski@Ethics@RTCDC
Carol Obrien@OGR@RTCDC
Bcc:
From: Donald L. Rosholt@Ethics@RTCDC
Subject: Altman Recusal List
Date: Friday, February 18, 1994 11:54:48 EST
Attach:
Certify: N
Forwarded by:

Ellen Kulka and the Treasury Department do not want Mr. Altman's Recusal List released with the D'Amato letter until Mr. Altman has been made aware of this and doesn't have a problem with it. Treasury will get back to Art or me ASAP once they have an opportunity to discuss this with him. Please hold off on your memo until then. Thanks!

13152

To: Roger C. Altman
From: Peter E. Knight
Re: D'Amato Correspondence
Date: February 23, 1994

Attached are the RTC responses to incoming requests for information from Senator D'Amato. The incoming letter from the Senator is follows each response.

At this time three items requested by the Senator are outstanding:

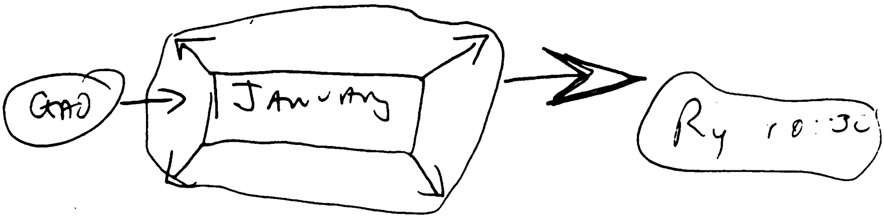
A chronology of the RTC's involvement with Madison.

"A copy of any review that the RTC prepared, or had prepared, pertaining to potential conflicts-of-interest that may have existed in connection with the Rose Law Firm and Madison Guaranty".

A response to the letter signed by Senator D'Amato and forty other Republican Senators questioning the RTC's actions with respect to civil litigation (two drafts attached).

Attachments

13153



Symington

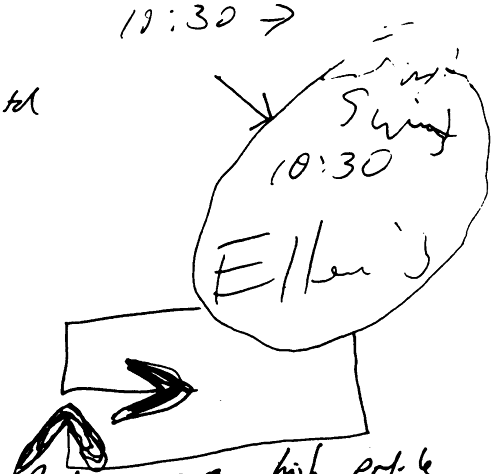
White

Metzenbaum
Senate Metzenbaum

10:30 →

Barcella Tracey/Postel

7/30



Bond: Jean Hanson Special Director – any high profile case be brought to attention of high level officials

– any high level contacts
MG not being pursued

"is RTC able to handle sensitive questions"
what was nature of Altman's advice to WH when he took RTC

Know of several instances when statement has to be altered

RTC
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Resolving The Crisis
Restoring The Confidence

March 9, 1994

MEMORANDUM TO: Jack Ryan
Ellen Kulka
Tom Horton
Johnnie Booker
Barry Kolatch
Donna Cunninghame
Paul Ramey
John Lynn
Tom Hindes
Erica Cooper

MEMORANDUM FROM: Peter Knight PK

SUBJECT: Post-hearing questions from Feb. 23, 1994
Semi-annual Oversight Board Hearing
Senate Banking Committee

Attached is a list of questions the Senate Banking Committee Members submitted for the record. On the left margin we have identified who is responsible for responding to each question.

Following the written questions, a list of verbal questions that were posed at the hearing is attached. Please reference your responses to those as "verbal response #...".

We would like the responses completed by Friday April 8. Please E-mail your responses as an attachment to Casey Carter. Be sure to identify each question when you send it. Feel free to send the answers as they are completed. Please don't wait until the last minute to send them all. Thank You.

801 17th Street, N.W. Washington, D.C. 20434

13155

Jk for Bond.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
SEMI-ANNUAL REPORT OF THE RTC THRIFT PROTECTION BOARD
FEBRUARY 24, 1994

QUESTIONS ~~FOR~~ from SENATOR BOND – FOR THE RECORD

ISSUES RELATED TO CRIMINAL REFERRALS AND FRAUDULENT ACTIVITIES

E. Kulka **1. FDIC and RTC Procedures.** Mr. Altman, The FDIC and RTC have a stated duty to each receivership and conservatorship and to the taxpayers to maximize recoveries from any viable source, including directors and officers, accountants, legal counsel, appraisers, and insurance policies covering their professional conduct. As I understand it, both the FDIC and RTC conduct an investigation into every institution in its caseload to determine potential civil recoveries and whether criminal conduct contributed to a failure. Moreover, an investigator will conduct a preliminary review of financial records, and then will submit a post-closing report within 90-days of the failure of the institution. The purpose of the report is to determine which potential claims can be terminated and which merit further investigative resources. If termination is recommended, written reasons for the termination must be given and approved. If a recommendation to sue is made, the investigator must prepare an "authority to sue" memorandum. A referral is then made to relevant agency, such as the U.S. Attorney for the Department of Justice.

Was this the procedure followed by the RTC with regard to Madison Guaranty?

Are these referrals maintained as records at the RTC? If so, will you authorize the release of these memorandums to this Committee? What records will you provide to this Committee and under what circumstances? I would like you to provide a legal opinion for the record describing fully the jurisdiction of the Committee with regard to RTC records, such as criminal referrals? For example, are there special waivers available for the committee of jurisdiction? Also, how do the rights of the private citizen differ from those of the committee for purposes of reviewing documents? How could release of the criminal referrals prejudice an ongoing investigation? Does the White House or any employees of the White House or the Clintons have copies of the criminal referrals? If so, how were these referrals obtained?

E. Kulka **2. RTC's Relationship with the Department of Justice.** Mr. Altman, I understand that regional RTC offices originate and refer the "authority to sue" memorandum to, in general, U.S. Attorneys working for the Department of Justice. I assume that specific Justice attorneys work thereafter in conjunction with the RTC attorneys on particular cases. Nevertheless, the Madison case resulted in 2 separate referrals. Assuming that the RTC and Justice work together closely on referrals, how did 2 referrals come about in the Madison case?

How common is it for RTC headquarters staff in Washington to review and make a determination on a referral?

What is the RTC's procedure on referrals when a prominent public figure is mentioned in a referral? Does the procedure differ from other referrals? Has the Madison Guaranty referral been handled differently from other referrals? In what way?

K.Altman Who is the White House liaison on the Madison Guaranty issues? Has this liaison or any other White House staff made any special requests concerning the Madison Guaranty probe?

E Kulka **3. Other RTC Referral Issues.** Mr. Altman, it appears that the first criminal referral in the Madison Guaranty probe was initiated in the fall of 1992. Apparently without any discussion with Justice concerning the first criminal referral, the RTC then sent another team of investigators to Little Rock in January of 1993 to more fully examine the issues surrounding Madison Guaranty. By October, 1993, the RTC had drafted an expanded referral.

Is this normally how referrals are handled? I am particularly troubled by the fact that it took over a year for the RTC to receive a official response on the initial criminal referral. Also, is it normal RTC practice to send additional investigators for further investigation on a matter before hearing the status of the first referral? In particular, were there special factors which warranted an additional investigation? If so, what were these factors?

I am also interested in getting a timeline and explanation of all criminal referrals and related responses and memorandums in the Madison Guaranty probe. By this I mean, I would like the dates of all referrals and responses to these referrals, including the names of all Justice and RTC employees involved. If these issues are considered confidential, how so? Also, how could release of this information prejudice an ongoing investigation?

E.Kulka **4. Justice Memo – Criminal Investigation Unwarranted.** Mr. Altman, a March 19, 1993 memo from the criminal division of Justice apparently concluded that the initial RTC criminal referral on the Madison Guaranty probe "did not appear to warrant initiation of criminal investigation." How was this decision made in terms of the decisionmaking procedure and the underlying legal theory? Who is responsible for communicating these decisions?

E.Kulka **5. Document Inventory.** Mr Altman, I would like a complete copy of the current inventory of all documents relevant to the Madison Guaranty and Whitewater probe. I would also like a list of all prior document inventories and dates of these inventories. I would also like a list of where all documents were obtained from and when? This information may be provided confidentially to the committee. If you refuse to provide this information, I would like a legal opinion on how the release of this ~~inventory~~ information could prejudice an ongoing investigation?

From Senator Bond

QUESTIONS FOR RTC ACTING DIRECTOR ALTMAN:

Another area of concern is the seeming lack of coordination between the RTC and the Department of Justice.

⑥
E. Kulka
T. Hindes

-- In March of 1992, the New York Times reports on the Whitewater/Madison situation with allegations of sweetheart deals in return for lenient regulatory treatment, and the issue suddenly became part of the 1992 Presidential campaign. RTC then sends a new team of investigators to Arkansas to look more closely at connections to local politicians.

Is this an accurate portayal of the reason/reasons that the RTC became involved again in the Madison case? If not, what did occur? Who made the decision to begin investigation of Madison? Did the RTC regional office notify the national office, or the Department of Justice that they were opening a potential case against Madison? If so who was informed?

⑦
E Kulka
T Hindes

-- In September 1992 regional RTC forwards a criminal complaint dealing with Madison Guranty to the Depart of Justice. According to press reports the local federal attorney in Little Rock is concerned that because Bill Clinton is included in the referral, that the decision to pursue the case should be made in Washington. He sends an urgent letter on October 7, 1992 asking for assistance.

Are the press reports accurate? Please provide a copy of that letter for the record.

⑧
E. Kulka
T. Hindes

-- Then Attorney General Barr is apparently concerned that pursuing the case one month before the election will look as if the Justice Department was being politicized, and so sends the referral to career people with DOJ with instructions that it be treated no different than any other referral.

13159

Is this the RTC's understanding of events? If not, what is your understanding?

(9)

E. Kulka
T. Hindes

-- March of 1993 the DOJ reports their recommendation that no action is "warranted", referral and recommendation then forwarded to the new Federal attorney in Little Rock Paula Casey.

Meanwhile, the RTC has decided to send investigators back to Little Rock in Jan of 1993, and they begin working on second, broader referral.

Is this description of the chronology correct? If not, what did occur?

(10)

-- In September of 1993 the KC regional office of the RTC, now again concerned that their referral will mention the President's name -- not to accuse him of any specific crime, but noting he may have benefited from crimes that had been committed, asks the national office for assistance in determining whether the President's name is to be part of the referral.

R. Altman

Mr Altman has testified that he knew nothing of this request. Who in the National office was aware of the request, and who then made the decision to not inform the acting director of the RTC of the request.?

(11)

E. Kulka
T. Hindes

-- The new referral is sent to DOJ, and arrives in Little Rock a short time before Little Rock federal prosecutor Paula Casey finally makes a decision on the original RTC referral -- saying she "concurs" that no further action is "warranted". But she doesn't act on the second referral.

Is this accurate? Specifically note for the record when the second (Oct 1993) referral was sent, to whom, and when it was received.

In addtion, please help the Committee understand:

⑫ E. Kulka T. Hindes

•Was there any communication from the field or regional office re. status of the first (Sept 92') referral? Did they ask the national office for assistance in moving the process along? If so who asked whom? What was Washington's response? If possible, please provide copies of all correspondence relating to moving the referral along.

⑬ E. Kulka T. Hindes

•Did Washington follow up by contacting the Department of Justice? If so, who contacted who? What was the response, and who was it from? Again please provide any correspondence pertaining to this issue.

⑭ E. Kulka T. Hindes

•Did RTC officials contact the Little Rock attorney's office to check on the status of the referral? If so who made the contacts and when? And what was the response? And who was it from ? Again please provide any correspondence pertaining to this issue.

⑮ E. Kulka T. Hindes

•What is the standard operating procedure when the field seeks answers on referrals? Is it SOP that the RTC would not hear for a year the status of their referral? Is it SOP that while waiting, the RTC field office would send additional investigators to continue digging -- and then send up an expanded referral, even before hearing on the first?

⑯ E. Kulka T. Hindes

•Specifically, who decided to send RTC investigators back to Little Rock in January of 1993? Was Washington informed? Did local or regional office ask permission to proceed, given that no anwers had been forthcoming from Justice on the first referral? Was Justice informed of this action? If so, who was informed and when?

Again please provide any correspondence pertaining to this issue.

⑰ E. Kulka T. Hindes

•What was the reason for the decision to send personnel back to Little Rock in January 1993? What happened between September 1992 when the RTC sent up its criminal referral, and January when they sent investigators back to Little Rock?

⑱ E. Kulka T. Hindes

•Was the RTC -- either local, regional or D.C. informed of the March

13161

19, 1993 memo by DOJ that RTC referral "did not appear to warrant initiation of criminal action"? Why not? Who is responsible for communicating these decisions?

⑲
E. Kulka
T. Hindes

•When the second stronger, broader referral was sent up in October of 1993, did the RTC make a specific push to Justice saying we have more information, please make a decision? Was the RTC informed that the decision was at that point resting in the hands of the Little Rock federal prosecutor? Did they send the referral directly there, or a copy directly there, knowing of the delays of the past?

13162

Verbal requests made at the hearing

J BOOKER

1. Senator Bennett: Response to RTC Denver Oversight Manager, Mr. John B. Cavanaugh's comments that appeared in the Denver Post.

E KULKA
T HINDES

2. Senator Kerry: Listing of PLS recoveries by state.

3. Senator Bond: Inquire of the Records Management Dept. whether they have either been given instructions about the handling of Madison documents from somebody outside; or, if they have found any evidence of missing documents, or find that there are documents apparently missing?

4. Senator Boxer: Investigation of the outside counsel retained in the fourteen "mega" thrifts controlled by RTC for any conflicts or appearances of conflicts. (Boxer, T Hindes and OGR met 3/4 to discuss altering the request -- pending)

5. Senator Bond: Will Pillsbury & Madison, as outside counsel for RTC on Madison, review the potential of suing various other law firms who represented Madison, or the Board of Directors? Are there other outside counsel or consultants hired in conjunction with Madison?

6. Senator Domenici: Requests investigation of the Rose law firm by the Inspector General.

HORTON

7. Senator Bennett: Follow up on the sale of a property mentioned by Senator Bennett. (OGR to obtain specifics)

13163

13014

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 14, 1994

RECEIVED
MAR 15 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

The Honorable Roger Altman
Chief Executive Officer
Resolution Trust Corporation
Member, Thrift Depositor Protection Oversight Board
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

You have previously been invited by letter dated March 3, 1994 to appear before the Committee on Banking, Finance and Urban Affairs for the purpose of the semiannual appearance of the Thrift Depositor Protection Oversight Board. I expect that Republican members of the Committee may use the opportunity of the Oversight Board hearing to pursue extraneous matters, including Madison Guaranty Savings and Loan. Any questions regarding Madison Guaranty Savings and Loans, matters that are the subject of pending investigations by Special Counsel Fiske or other law enforcement authorities, or other extraneous matters not specifically set forth in section 21A(k)(6) of the Federal Home Loan Bank Act or the March 3, 1994 invitation letter will not be considered pertinent at the hearing and need not be answered by you.

I was the primary sponsor of the provision to require the Oversight Board to appear on a semiannual basis so that the Committee could oversee its activities. The recent appropriation of funds to the RTC, the management reforms, and FDIC-RTC transition measures required under Public Law 103-24 clearly require the complete and full attention of the Committee in order to have a successful Oversight Board hearing. I intend to keep the hearing so focused.

I look forward to your March 24, 1994 appearance.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

13164

SENT BY: 3-15-94 : 8:51 : HOUSE BANKING → 9 2026220534;# 2/ 2

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 14, 1994

Joan:- For your information.

RECEIVED
MAR 15 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

The Honorable Lloyd Bentsen
Secretary of the Treasury
Chairman, Thrift Depositor
Protection Oversight Board
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Secretary:

You have previously been invited by letter dated March 3, 1994 to appear and testify before the Committee on Banking, Finance and Urban Affairs for the purpose of the semiannual appearance of the Thrift Depositor Protection Oversight Board. That letter specifies in detail the matters to which you should direct your testimony. I expect that Republican members of the committee may use the opportunity of the Oversight Board hearing to pursue their stated interest in extraneous matters, including Madison Guaranty Savings and Loan. Any questions regarding Madison Guaranty Savings and Loans, matters that are the subject of pending investigations by Special Counsel Fiske or other law enforcement authorities, or other extraneous matters not specifically set forth in section 21A(k)(6) of the Federal Home Loan Bank Act or the March 3, 1994 invitation will not be considered pertinent at the hearing and need not be answered by you.

I was the primary sponsor of the provision to require the Oversight Board to appear on a semiannual basis so that the Committee could oversee its activities. The recent appropriation of funds to the RTC, the management reforms, and FDIC-RTC transition measures required under Public Law 103-24 clearly require the complete and full attention of the Committee in order to have a successful Oversight Board hearing. I intend to keep the hearing so focused.

I look forward to your March 24, 1994 appearance.

Sincerely,

Henry

Henry B. Gonzalez
Chairman

13165

SENT BY: 3- 8-94 : 10:45 : HOUSE BANKING -202+416-4690 :# 2/ 4

U.S. Department of Justice

Office of the Independent Counsel

Little Rock, Arkansas

March 7, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

The Honorable James A. Leach
Ranking Minority Member of the
Committee on Banking, Finance
and Urban Affairs
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Congressmen Gonzalez and Leach:

I am writing this letter to express my strong concern about the impact of any hearings that your Committee might hold into the underlying events concerning Madison Guaranty Savings and Loan ("MGS&L"), Whitewater and Capital Management Services ("CMS") on the investigation that this Office is conducting into these matters.

As you know, I was appointed to the position of Independent Counsel pursuant to CFR 603.1 on January 31, 1994. Since that date we have obtained an Order from Chief Judge Stephen M. Reasoner in the Eastern District of Arkansas authorizing the empaneling of a grand jury which will be devoted exclusively to the Whitewater/MGS&L/CMS investigation. In the meantime, we have been using the regular grand jury for this District. We have a team of eight experienced attorneys, six of whom were current or former prosecutors when they joined the staff. We are working in Little Rock with a team of more than twenty FBI agents and financial analysts who are working full time on this matter. We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation.

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Inquiry into the underlying events surrounding MGS&L, Whitewater and CMS by a Congressional Committee would pose a severe risk to the integrity of our investigation. Inevitably, any such inquiry would overlap substantially with the grand jury's activities. Among other concerns, the Committee certainly would seek to interview the same witnesses or subjects who are central to the criminal investigation. Such interviews could jeopardize our investigation in several respects, including the dangers of Congressional immunity, the premature disclosures of the contents of documents or of witnesses' testimony to other witnesses on the same subject (creating the risk of tailored testimony) and of premature public disclosure of matters at the core of the criminal investigation. This inherent conflict would be greatly magnified by the fact that the Committee would be covering essentially the same ground as the grand jury.

While we recognize the Committee's oversight responsibilities pursuant to Section 501 of PL 101-73 (FIRREA), we have similar concerns with a Congressional investigation into the recently-disclosed meetings between White House and Treasury Department officials -- particularly because we believe these hearings will inevitably lead to the disclosure of the contents of RTC referrals and other information relating to the underlying grand jury investigation.

For these reasons, we request that your Committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving the fairness, thoroughness, and confidentiality of the grand jury process.

I will be glad to meet with you personally to explain our position further if you feel that would be helpful.

Respectfully yours,

Robert B Fiske

ROBERT B. FISKE, JR.
Independant Counsel

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(202) 225-4247

March 7, 1994

Mr. Robert B. Fiske, Jr.
Office of the Independent Counsel
Two Financial Centre Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Mr. Fiske:

I received your letter, and want to assure you that I have no intention of taking any action that might interfere with, compromise or otherwise hinder your investigation into Madison Guaranty Savings and Loan (Madison) and related matters. I have from the beginning pointed out to Mr. Leach that with regard to Madison, "The issues that appear outstanding are matters of legal liability and are being pursued vigorously by the Justice Department and regulatory agencies." I have also noted that this case does not appear to present any legislative issues not previously addressed.

However, as you recognize, section 501 of Public Law 101-73 requires the Committee to conduct regular oversight hearings involving the Thrift Depositor Protection Board, and the law requires that the Board report on specified matters. The Committee intends to carry out its regular oversight hearing, which I have set for March 24. While I cannot prevent Members from propounding questions, it is within the province of the Chair to rule on the relevance of questions.

The Republican Members of the Committee are conducting their own review of the Madison matter. They have requested numerous documents, sought to interview witnesses and otherwise carry out an investigation. Since these actions may be inconsistent with your responsibilities, you may wish to advise all parties of your views on whether they should respond to such inquiries. I do not intend for the Committee to interfere in your investigation or any other Law enforcement activity in any manner, but do want to reiterate that the Republican Members do not necessarily share my concern. Accordingly, while you can expect that I will in no way interfere with your work, you should take steps to advise all parties of your concern about maintaining the integrity of your investigation.

Be assured of my cooperation, and my desire to see this matter thoroughly, promptly, and dispassionately investigated.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman

13168

RT-13005
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Ms. Hinton
OGR Reps & Staff
Ms. Kauper

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 21, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

This is in response to your letter of March 11 requesting information about which Democrat and Republican Members of the House and Senate received "the same briefings that RTC and Treasury officials provided the White House on criminal referrals and other matters related to Madison Guaranty."

The enclosed document provides the information requested on meetings held by RTC officials with Congressional members or staff. I have no knowledge of meetings with Congressional offices provided by government officials other than RTC officials. I have no direct knowledge of the nature or extent of any White House briefings referenced in your letter, so I cannot compare congressional briefings with those that occurred with White House staff.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

John E. Ryan
Deputy CEO

Enclosure

801 17th Street, N.W. Washington, D.C. 20434

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RTC Congressional Briefings Relating to Madison Guaranty

Date	Congressional Staff	RTC Officials	Contents of Briefing
12/23/93	Anthony Cole Joseph Seidel John Scharfenberg Margo Tank (Rep. Leach)	Peter Knight Bill Collishaw Casey Carter	Discussion of RTC approach in responding to Rep. Leach's investigation and establishing operating parameters
12/27/93	Joe Seidel (Rep. Leach)	Peter Knight Casey Carter	Review of various documents.
12/30/93	Mike McGarry (Rep. Leach)	Bowen Hinton	Review of various documents in Kansas City office and visit to Iron Mountain Storage facility.
1/5/94	Joseph Seidel John Scharfenberg Mike McGarry Margo Tank (Rep. Leach)	Peter Knight Carl Gamble Jack Binkley Phil Lindenmuth Steve Primrose Bill Collishaw	Discussion of RTC position on Rep. Leach's standing as Ranking Minority Member, concerns about Privacy Act, Trade Secrets Act, and related matters.
1/24/94	Howard Menell Raymond Natter Doug Nappi (Sen. D'Amato)	Jack Ryan Peter Knight	Discussion of RTC approach in responding to Sen. D'Amato's investigation and establishing operating parameters. Discussion included the RTC's position on the Senator as Ranking Minority Member, RTC concerns about document production relating to civil and criminal investigations; a general discussion of tolling agreements; and a discussion of whether the statute of limitations expired on August 9, 1994. This last point was discussed further in a telephone conference call later that week between Raymond Natter of Senator D'Amato's staff and Peter Knight and Mark Gabrellian of the RTC.
1/31/94	Doug Nappi (Sen. D'Amato)	Peter Knight Jack Binkley Casey Carter Steve Primrose	Discussion of RTC document inventory, RTC concerns about Privacy Act, etc., and related issues.
2/28/94	Joseph Seidel Mike McGarry John Scharfenberg Gary Parker (Rep. Leach)	Peter Knight Tom Hindes	Discussion of Rep. Leach's request for general PLS information pursuant to Chairman Gonzalez's May 12, 1993 letter.

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 18, 1994

Mr. Roger Altman
President and
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Please provide to my staff copies of all the documents pertaining to Madison Guaranty Savings and Loan ("Madison"), including all subsidiaries of Madison, that are currently in the possession, or subject to the control, of the Resolution Trust Corporation ("RTC"). In addition, please forward the names and titles of all RTC employees that are involved in any review or investigation of the Madison Guaranty matter. Should the RTC refuse to release any documents, please provide, in writing, a summary index of documents that the RTC refuses to provide as well as an explanation of the grounds alleged for that refusal.

Please forward this information to Douglas Nappi, at the Senate Committee on Banking, Housing and Urban Affairs, 534 Dirksen, Washington, DC 20510. Mr. Nappi can be reached at 202-224-1577.

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senator

AD:dn

13171

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 23, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

Interim CEO Roger C. Altman has asked me to respond to your letter dated February 18, 1993, requesting copies of records pertaining to Madison Guaranty Savings and Loan. As you may know from our discussions with your staff, the Resolution Trust Corporation is concerned that disclosure of different categories of information covered by your blanket request could harm the RTC's future position with respect to possible civil litigation; jeopardize the work of independent Counsel Robert Fiske's criminal investigation; result in the release of personal or corporate financial information in violation of Federal law; or, constitute a waiver of one or more privileges to which the agency is entitled.

I have instructed RTC personnel to work with your staff to provide you with all the documents that we can provide within the operating strictures posed by your request. Despite the RTC's desire to cooperate with you, a review of relevant statutes and case law has left the RTC with no other option than to take the position that a Ranking Minority Member of the Senate Committee on Banking, Housing, and Urban Affairs has the authority of an individual Member of Congress and therefore may only obtain information that would be otherwise available to the public pursuant to the Freedom of Information Act. Therefore, the RTC believes that disclosing privileged information to you could raise questions of waiver and could detrimentally affect any further legal actions that may be contemplated regarding Madison.

Today, your staff received over 6,500 pages of documents which are listed in an enclosure to this letter. The RTC has already provided your staff with extensive inventories of Madison-related documents. Since there are over 300,000 pages of Madison-related documents, it would be helpful to have your staff narrow your request to specific documents or classes of documents. At that point, RTC personnel will discuss with your staff how we may be able to meet your request.

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Honorable Alfonse M. D'Amato
Page 2

The RTC will continue to work with your staff to make available to you as many records as possible within the limitations discussed above.

Sincerely,

John Ryan

John E. Ryan
Deputy CEO

Enclosure

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(202) 226-4247

December 9, 1993

The Honorable Roger C. Altman
Interim Chief Executive Officer
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Altman:

I am writing in reference to the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan (Madison). As you know, Madison was taken over by federal regulators in March of 1989 and resolved by the Resolution Trust Corporation (RTC) in November, 1990.

To assist in this investigation, I request that the RTC provide access to all documents related to Madison and its subsidiaries. Such documents would include, but not be limited to, administrative files, examination reports, interoffice memorandum, notes and minutes of meetings (including telephonic meetings), correspondence, electronic mail, and agreements the RTC entered into with private sector contractors during the resolution of Madison. In addition to documents in possession at RTC-Washington, I request access to all documents related to Madison held at RTC field offices. Furthermore, please provide the names and titles of all RTC employees involved with the disposition of Madison.

Please have your staff contact Mike McGarry at 202-225-2258 to discuss arrangements to review the aforementioned documents as soon as possible.

I appreciate your assistance and look forward to your cooperation.

Sincerely,

James A. Leach

James A. Leach
Ranking Member

13174

RTC
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Resolving The Crisis
Restoring The Confidence

December 22, 1993

The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance & Urban Affairs
U. S. House of Representatives
Washington DC 20515

Dear Jim:

I am writing in response to your letter dated December 9, 1993, requesting that the Resolution Trust Corporation provide certain documents and records for the House Banking Committee Minority investigation of the failure of Madison Guaranty Savings and Loan Association located in McCrory, Arkansas. Madison Guaranty is an institution in receivership with the RTC.

Let me reassure you that the RTC will thoroughly cooperate in this investigation. Indeed, it was the RTC which originally referred this matter to the Justice Department. RTC staff has been instructed to assemble the relevant documents, which are voluminous, as quickly as possible.

Ideally we would forward all of these materials to you today, and I expect to supply most of them in short order. I am advised by the RTC General Counsel, however, that there may be limits on our ability to provide certain of them. These limits involve the Privacy Act and legal privilege or other restrictions on the ability of the RTC to release them. This will have to be coordinated with the Justice Department. I have instructed the RTC staff to work with your staff on appropriate procedures for handling these issues.

Sincerely,

Roger C. Altman
Interim CEO

801 17th Street, NW Washington, DC 20434

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(202) 225-4247

February 3, 1994

FEB 4 1994
OFFICE OF [illegible]
RTC

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

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not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

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on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,

JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

13199

DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

February 23, 1994

The Honorable James A. Leach
Ranking Member
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515-6050

Dear Mr. Leach:

In your letter to Deputy Secretary Altman of February 3, 1994, you asked him to seek advice from "Treasury's General Counsel and Ethics Office" as to whether he is obligated to recuse himself from decisions concerning the Resolution Trust Corporation's resolution of Madison Guaranty Savings and Loan Association. He has sought such advice from me and from ethics officials of the Resolution Trust Corporation and the Treasury Department.

I understand you to express concern about the possibility that the Deputy Secretary might, as acting Chief Executive Officer of the Resolution Trust Corporation pursuant to the Vacancy Act, 5 U.S.C. 3347, participate in RTC decisions as to whether there are civil claims for RTC to pursue arising from the failure of Madison Guaranty Savings and Loan Association and the expiration of statutes of limitation applicable to any such claims. Your concern seems to stem from the fact that decisions regarding those claims "may touch upon the President" who appointed the Deputy Secretary to his Treasury position. You asked the Deputy Secretary to seek advice from Treasury's General Counsel as to whether he is "obligated to recuse (himself) from any decisions concerning the resolution of Madison Guaranty." I have advised the Deputy Secretary that neither his appointment at Treasury nor his detail to the RTC creates such an obligation.

Your letter suggests that the Deputy Secretary's participation in such decisions would be "structurally unseemly," a conclusion apparently based on the fact that he was appointed by the President and confirmed for a position in a Cabinet department and is acting in a position in an Executive agency that is not such a department. However, the authority pursuant to which the Deputy Secretary is detailed to RTC duties was amended in 1988 precisely so that *any* Executive agency, such as the RTC, and not just Cabinet departments, could continue to have Presidentially-appointed leadership when circumstances delay filling vacant positions. Pub.L. 100-398, §7(a)(1) and (2), Aug. 17, 1988, 102 Stat. 988.

13200

You also suggest that a structural issue arises from RTC's "public law enforcement responsibilities;" that it would be improper for a Presidential appointee not confirmed for a position at the RTC to exercise those responsibilities. However, the RTC is not a "law enforcement" agency. Its responsibility to pursue civil claims owed to the institutions it takes over is not a "law enforcement" responsibility. In fact, RTC's claims collection responsibility is more analogous to the responsibility of the head of every Executive agency to collect claims of the United States that arise from the agency's activities or are referred to it. 31 U.S.C. 3711. The differences between the Deputy Secretary's claims collection responsibilities at Treasury and at the RTC raise no "structural" concern regarding his performance of those responsibilities at the RTC.

Even if the RTC were in some special sense a "law enforcement" agency, which it is not, absent an exception in the Vacancy Act or another statutory provision creating an exception, the Vacancy Act authorizes filling vacant positions at any "Executive agency (other than the General Accounting Office)." The language of the Act does not distinguish among agencies based on the nature of their functions. Moreover, it would be incorrect to infer the existence of such distinctions. In the one instance of an exception created by the Vacancy Act, Congress has employed language that clearly achieves that objective. The Act expressly provides that its authority to detail Presidential appointees from other agencies does not apply to vacancies in the office of the Attorney General; neither the Vacancy Act nor any other law creates such an exception for the RTC.

Finally, even if there were some basis for reading into the Vacancy Act a principle that only an official confirmed for a position in an agency with law enforcement responsibilities should be detailed to another such agency, the Deputy Secretary's position at Treasury would qualify, rather than disqualify him. Treasury has enormous criminal law enforcement responsibilities, as is amply demonstrated by the significant law enforcement jurisdictions of the Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service and the Internal Revenue Service. Each of those organizations reports through its chain of command to the Deputy Secretary of the Treasury.

You also suggested that Deputy Secretary Altman consult ethics officials. He has done so. I am informed that the RTC's Ethics Officer and Treasury's Designated Agency Ethics Official, in consultation with the Office of Government Ethics, have advised

the Deputy Secretary that he is under no legal obligation to recuse himself from matters at the RTC that "may touch upon the President."

I trust this letter fully addresses your concerns.

Sincerely,

Jean E. Hanson
General Counsel

13202

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May 4, 1993

Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
  and Urban Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED
MAY 4 1993
Committee on Banking, Finance
& Urban Affairs

Dear Mr. Chairman:

Thank you for this opportunity to comment on the issue of extending the limitations period applicable to tort claims brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed insured depository institution.

As you know, over a year ago the RTC generally supported legislative efforts to extend this limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes. The RTC, however, survived this critical period of time without missing a deadline. In fact, as of March 31, 1993, the RTC had 320 pending offensive lawsuits involving RTC claims filed in 174 institutions. As of the same date, 120 settlement agreements have been executed, and 11 cases went to final judgment through trial.

In addition, beginning last autumn, the RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed"

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claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines.

Please let me know if you need any further information.

Sincerely,

Roger C. Altman
Interim CEO

13204

THE WHITE HOUSE
WASHINGTON

February 10, 1994

Dear Congressman Wolf:

Thank you for your letter of January 11, which asks whether public funds are being used to provide the President with legal assistance related to issues surrounding Whitewater Development Corporation and the former Madison Guaranty Savings and Loan.

As I am sure you realize, an investigation affecting a sitting President necessarily requires the official attention of the White House staff, including the Office of the Counsel to the President. For example, the White House has been called upon to respond to various inquiries from members of Congress. Similarly, members of the press have made inquiries to the White House. These inquiries have required responses from the White House, including legal judgments on matters affecting the office of President of the United States.

As you know, however, the President and Mrs. Clinton are represented personally by a private attorney. No public funds are being used to compensate that attorney. Furthermore, no White House staff members are acting as lawyers for the President and the First Lady where there is no official nexus.

Thank you for your interest in this matter.

Sincerely,

FEB 15 1994

Bernard W. Nussbaum
Counsel to the President

The Honorable Frank R. Wolf
Member of Congress
U.S. House of Representatives
Washington, D.C. 20515

13205

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(202) 226-4247

March 11, 1994

Mr. John Ryan
Deputy Chief Executive Officer
Resolution Trust Corporation
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Ryan:

In reference to the meetings among RTC, Treasury and White House officials concerning criminal referrals related to Madison Guaranty, a number of officials within the Administration have publicly stated that Congressional Republicans and Democrats, in the House and the Senate, received the same briefing as that which was provided the White House by RTC officials. These comments are interesting in that neither I, as Ranking Member of the Banking Committee, nor my staff ever were offered such a briefing(s).

Please provide a response as to the Democrat and Republican Members of the House and the Senate, including any staff, who received the same briefing that RTC and Treasury officials provided the White House on criminal referrals and other matters related to Madison Guaranty. In addition, please include the dates on which such briefings were held, a list of the administration officials who conducted the meetings, and the substantive content of the briefings.

Please provide a response by March 21, 1994. Thank you for your prompt attention to this matter.

Sincerely,

James A. Leach
JAMES A. LEACH
Ranking Member

13206

RT-13005
cc: Mr. Ryan
Standard Distribution
Mr. Adair
Ms. Kulka
Ms. Hinton
OGR Reps & Staff
Ms. Kauper

RTC
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Restoring The Confidence

March 21, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

This is in response to your letter of March 11 requesting information about which Democrat and Republican Members of the House and Senate received "the same briefings that RTC and Treasury officials provided the White House on criminal referrals and other matters related to Madison Guaranty."

The enclosed document provides the information requested on meetings held by RTC officials with Congressional members or staff. I have no knowledge of meetings with Congressional offices provided by government officials other than RTC officials. I have no direct knowledge of the nature or extent of any White House briefings referenced in your letter, so I cannot compare congressional briefings with those that occurred with White House staff.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

John E. Ryan
Deputy CEO

Enclosure

801 17th Street, N.W. Washington, D.C. 20434

13207

RTC Congressional Briefings Relating to Madison Guaranty

Date	Congressional Staff	RTC Officials	Contents of Briefing
12/23/93	Anthony Cole Joseph Seidel John Scharfenberg Margo Tank (Rep. Leach)	Peter Knight Bill Collishaw Casey Carter	Discussion of RTC approach in responding to Rep. Leach's investigation and establishing operating parameters.
12/27/93	Joe Seidel (Rep. Leach)	Peter Knight Casey Carter	Review of various documents.
12/30/93	Mike McGarry (Rep. Leach)	Bowen Hinton	Review of various documents in Kansas City office and visit to Iron Mountain Storage facility.
1/5/94	Joseph Seidel John Scharfenberg Mike McGarry Margo Tank (Rep. Leach)	Peter Knight Carl Gamble Jack Binkley Phil Lindenmuth Steve Primrose Bill Collishaw	Discussion of RTC position on Rep. Leach's standing as Ranking Minority Member, concerns about Privacy Act, Trade Secrets Act, and related matters.
1/24/94	Howard Menell Raymond Natter Doug Nappi (Sen. D'Amato)	Jack Ryan Peter Knight	Discussion of RTC approach in responding to Sen. D'Amato's investigation and establishing operating parameters. Discussion included the RTC's position on the Senator as Ranking Minority Member, RTC concerns about document production relating to civil and criminal investigations; a general discussion of tolling agreements; and a discussion of whether the statute of limitations expired on August 9, 1994. This last point was discussed further in a telephone conference call later that week between Raymond Natter of Senator D'Amato's staff and Peter Knight and Mark Gabrellian of the RTC
1/31/94	Doug Nappi (Sen. D'Amato)	Peter Knight Jack Binkley Casey Carter Steve Primrose	Discussion of RTC document inventory, RTC concerns about Privacy Act, etc., and related issues.
2/28/94	Joseph Seidel Mike McGarry John Scharfenberg Gary Parker (Rep. Leach)	Peter Knight Tom Hindes	Discussion of Rep. Leach's request for general PLS information pursuant to Chairman Gonzalez's May 12, 1993 letter

13208

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[illegible]

March 30, 1994

Honorable Jim Leach
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Leach:

We wish to comment on your March 24, 1994 statement before the U.S. House of Representatives as it relates to the RTC's handling of Madison Guaranty. Furthermore, we are concerned that the RTC's ability to recover money for the taxpayers may be compromised by unauthorized and premature disclosure of active investigative information.

By way of background, I became Deputy CEO of the RTC on January 4, 1994. Ellen B. Kulka became General Counsel on January 17, 1994. Neither of us are political appointees. No pressure has been exerted by the Treasury, the White House, or any other source in the Executive Branch concerning the performance of our responsibilities with respect to Madison Guaranty or Whitewater since either of us joined the RTC.

Most of the events cited in your statement occurred before we joined the RTC and we have no first-hand knowledge of them. However, we do feel compelled to point out one or two facts in the documents you disclosed that we believe put a somewhat different light on matters than what you cast. While we believe that any comment about criminal referrals should be avoided, the rush to disclose confidential documents and to obtain information which is partial at best from junior staff has led to substantial misinformation being disseminated to the public. First, the overriding fact is that referrals were made exactly as the investigators had prepared them irrespective of whether there were internal staff disagreements about them or not. We would also observe that, based on our short tenure, internal staff disagreements at the RTC are not uncommon. Second, you stated that "...A senior Kansas City criminal investigator was removed from the case.." What you failed to point out--or perhaps were

801 17th Street, N.W. Washington, D.C. 20434

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not aware of--is that the attorney in Kansas City with whom the investigators had disagreements was also removed from the case at the same time.

As a general matter, it is clearly inappropriate for a government agency to publicly discuss referrals made to the Justice Department regarding possible criminal violations because such discussions could undermine the Department's ability to prosecute the case if the facts are determined to warrant prosecution. As we have indicated to you on numerous recent occasions, the RTC follows this policy. Disregarding this policy, you have demanded information regarding such matters. As early as Thursday of last week, you publicly released documents and internal memoranda which were obtained from employees of the RTC who were not authorized to disclose them. As you may recall, you requested a particular document from the RTC last week even though it was apparently already in your possession. While you stated in your request to the RTC that special counsel Fiske did not object to the release of documents to the Congress, our continuing dialogue with Mr. Fiske about the release of documents and about the specific document in question verified our understanding that he believes, as we do, that such a release would be inappropriate and could have a deleterious effect on our investigations. We, therefore, denied your request and conveyed the substance of our conversation with Mr. Fiske to your staff before your comments on Thursday. We were surprised to see the document in the materials appended to your statement which was supplied to the press.

With respect to events that are attributed specifically to us, you state "... officials from RTC Washington visited Kansas City to pass on the message that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison.." While we do not know precisely what was said or the context in which it was interpreted, we are quite sure that neither of us has given any such instructions to RTC staff. In recognition that it is rarely possible to prove something didn't happen, we simply wish to be judged by our actions in the performance of our responsibilities. Those actions taken by the RTC during our tenure include: first, the reopening of the Madison investigation in light of the extension of the statute of limitations and additional information which has become available; second, the request that the Office of Inspector General review the RTC generated report on the Rose Law Firm as well as the billings of that firm with respect to Madison; third, the retention by the Legal Division in February 1994 of Pillsbury, Madison & Sutro to serve as outside counsel to help with the investigation; and fourth, the full cooperation the RTC has given to special counsel Robert Fiske.

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Honorable Jim Leach
Page 3

When the RTC has completed its investigation and taken appropriate action, a full report on this matter will be made to the U.S. Congress. We fully expect to be judged by our actions at that time. In the meantime, we believe all parties concerned would be ill-served by the premature disclosure of incomplete and fragmentary data.

Finally, we are quite concerned about the future implication of the encouragement given to RTC staff over the unauthorized disclosure of confidential information. Such disclosures not only can impair the RTC's ability to pursue recoveries for the taxpayer but also could compromise the financial privacy of any citizen whose only misdeed was doing business with a savings and loan that failed. Our attempts to protect the RTC's legal and fiduciary duties in this regard, and to speak consistently on an extremely sensitive matter is inappropriately characterized as "gagging".

We have made all information requested by Mr. Fiske's staff available to him and will continue to cooperate to the fullest extent possible. We have made substantial amounts of information available to your staff and the staffs of others in Congress. To the extent consistent with our duty to complete an investigation and make sure it is not compromised, we will continue to cooperate with Congress in a manner consistent with our understanding of our duties.

Sincerely,

John E. Ryan
Deputy CEO

Ellen B. Kulka
General Counsel

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(202) 225-4247

March 31, 1994

John E. Ryan
Deputy Chief Executive Officer
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Ellen B. Kulka
General Counsel
The Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan and Ms. Kulka:

I am in receipt of the two RTC letters of March 30, 1994 and would like to make the following points.

While I have made no assertion or implication that either of you are responsible for RTC decisions made last fall, my concern is that efforts were made to jeopardize the independence of the regulatory system at that time and that certain reorganization decisions recently made may impinge on the independence of the RTC's investigations division. For perspective, I have noted and you do not contest that:

1) It was RTC-Washington that within two days of receipt of criminal referrals from the Kansas City office visited the White House;

2) It was RTC Washington that objected to the content of the referrals, and shortly after their receipt, attempted to establish an unprecedented change of procedure related to reviewing then existent and future Madison referrals;

3) Shortly after, a senior Kansas City criminal investigator was removed from the case;

4) Then in early February, officials from RTC-Washington visited Kansas City where the message was communicated that senior RTC officials in Washington wished to claim Whitewater did not cause any losses at Madison.

13212

Nothing in your response disputes the occurrence of these events. With regard to the statement "that senior officials in Washington wanted it understood that they wished to claim Whitewater was not responsible for any losses to Madison," you state, "we are quite sure that neither of us has given any such instructions to RTC staff." I appreciate this perspective. However, it is a point of fact, not conjecture, that RTC attorney April Breslaw told a senior criminal investigator in the Kansas City office that, "Ryan and Kulka, the 'head people,' would like to be able to say that Whitewater did not cause a loss to Madison," as reflected in the attached notes from the taped conversation of February 2, 1994.

With regard to your implicit acknowledgement that RTC-Washington disagreed with criminal referrals developed at the regional office, it should be stressed that even though these referrals were sent to Justice exactly as investigators had proposed them, it is not the case, as you suggest, that internal staff disagreements in the Washington vs. regional office context are common. The fact is that it is virtually unprecedented for RTC-Washington to attempt to influence the content of a criminal referral developed by a regional office in the way RTC-Washington attempted. It was only because of the courageous refusal of the Kansas City office to modify their content that the referrals were sent untampered to the Department of Justice. This decision in Kansas City presumably represented a consensual leadership decision, not simply a "junior staff" approach as your letter implies. In this regard, there is no indication whatsoever that the referral information reflected anything except the highest professional standard.

As for documentation, it is always a matter of judgement as to what to release publicly. We made a careful effort to release nothing that affected the prosecutorial strategy of the Special Counsel. In fact, we carefully culled documents in our possession with the intent to withhold anything that could affect prosecutorial discretion. We even redacted previously unreported information that may have related to prosecutorial strategy. If the material has shed an embarrassing light on government policy and policy makers, we can only say that the documents speak for themselves.

With regard to your statement "you requested a particular document from the RTC last week even though it was apparently already in your possession," please be informed that when the request was initially made I did not have this document in my possession. Here it might also be pointed out that the document you objected to was fully described in a prior Washington Post story of November 11, 1993, a story which did not originate from my office. To assert that the public release of a document already widely reported "could have a deleterious effect on [y]our investigations," is simply not credible.

So that there is no misunderstanding, I support certain decisions made under your leadership at the RTC. I am pleased that the RTC has hired outside counsel to advise the agency and that it has requested its own inspector general to reexamine issues surrounding the failure of Madison. I am also pleased that you have indicated your intent to cooperate fully with Special Counsel Fiske.

However, I remain concerned at the intransigence of RTC-Washington concerning document production and the recent reorganization effort which appears to reduce markedly the independence of regional RTC investigation units. I am particularly concerned about the new rules designed to take away regional independence that have been imposed in recent weeks as reported in the March 30, 1994 Kansas City Star (copy enclosed). The Star states: "For the first time the RTC criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section." Also reported are concerns of RTC employees that this change in procedure will politicize the criminal referral process, create potential conflicts of interest and be the "death of the RTC investigations division." Generally, there is a case for reorganizing any federal bureaucracy at any time. However, the timing and substance of the structural change raises questions that relate more to political independence than bureaucratic efficiencies.

As demonstrated in the remarkable independence of the San Francisco regional OTS office in its dispute with Washington authorities in the Keating matter, and as reflected in Kansas City's courageous investigation of Madison, it would appear that decentralized regional offices are more immune to political influence than Washington bureaucracies. Centralization of decision making carries in this circumstance apparent and unfortunate political overtones.

Sincerely,

JAMES A. LEACH
Ranking Member

JL:bt

enclosures (2)

1

Notes from the conversation between RTC Senior Criminal Investigator L. Jean Lewis and FDIC Attorney April Breslaw on February 2, 1994, from approximately 3:50 p.m. until 4:35 p.m.

- April stated that "the people at the top" keep getting asked about Whitewater, which seems to have become a catch all phrase for Madison and it's related investigations. She said that eventually "this group" is going to have to make a statement about whether or not Whitewater caused a loss to Madison, but the fact that Whitewater had no loan at Madison provided less potential for a loss. April stated very clearly that Ryan and Kulka (?), the "head people", would like to be able to say that Whitewater did not cause a loss to Madison, but the problem is that so far no one has been able to say that to them. She felt like they wanted to be able to provide an "honest answer", but that there were certain answers that they would be "happier about, because it would get them off the hook."

- April felt that it would have been difficult to determine exactly what happened with the Whitewater account, because so many checks had gone in and out of the account, and made a reference to the end resulting netting itself out. She asked about Greg Young's work papers on the Maple Creek Farms reserve for development analysis, and how it didn't seem to have any apparent tie to Whitewater. I concurred that it didn't have any legitimately defined tie, which is precisely why it was included in the referral.

- She inquired about the $30,000 check to Jim McDougal from Whitewater in 5/85, and about the disposition of the funds. I explained the transaction as I know it: the $30,000 had been converted to a MGS&L cashier's check, which was subsequently endorsed by [redacted] and deposited to Riggs National Bank. I explained that when the check was force paid, the Whitewater account was overdrawn by over $28,000 which was then subsequently covered, by the payment of a $30,000 bonus from MFC to Jim McDougal, deposited directly to Whitewater on McDougal's orders.

- She asked how we could get to a clear cut answer as to whether or not Whitewater caused a loss to Madison. I stated that, as far as I am concerned, there is a clear cut loss. I also stated that any attempt to extract Whitewater as one entity from the rest of the McDougal controlled entities involved in the alleged check kite will distort the entire picture. I further pointed out that I would produce the answers that were available, but that I would not facilitate providing "the people at the top" with the "politically correct answers just to get them off the hook".

- She asked questions about the specifics of the checks going through the Whitewater account. I stated that it appeared that the majority of the checks written out of the Whitewater account during the window time frame were going to other financial institutions to make loan payments. I also said that the referral focused only on a short time frame, but that if that same research were conducted for a two year period, it was my belief that the losses to Madison from the Whitewater account alone would easily exceed $100,000, given that $70,000 had gone out of the account during the six month window time frame. I further added that the end loss result from the entire scam, using all 12 companies/entities, would be hundreds of thousands of dollars in what were essentially unauthorized loans.

- I stated that if she wanted me to tell her, unequivocally, that Whitewater didn't cause a loss, I could not do that. I could only reiterate the allegations contained in the referral, which are based on fact, and that it is my opinion and belief that Whitewater did, in fact, cause a loss to Madison because of the amount of the unauthorized loans that McDougal made, through the check kite, to entities in which he was a primary party and beneficiary. I also pointed out that this ultimately benefited his business partners - the same business partners that knew they had real estate ventures that were not cash flowing, but that also knew their mortgages and/or notes were somehow being paid. I pointed out that these business partners are intelligent individuals, the majority of them being attorneys, who must have concluded that McDougal was making the payments for their benefit. I posed the question to her, if you know that your mortgages are being paid, but you aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used to your benefit? Would you just assume that your partner was making these multi-thousand dollar payments out of the goodness of his heart? Wouldn't you wonder even more if you knew that your business partner's main source of income, an S&L, was in serious financial difficulty, which by 1985 was fairly common knowledge?

We discussed the initiation of the MGSL investigation, and how evidence of the check kite came to light. I explained that after reviewing a series of checks, all of which noted "loan" in the memo field, I discerned a pattern that looked like a check kite, and proceeded to trace funds through the various accounts, which is a standard investigations procedures. The end result was the referral alleging a massive check kite. I also advised April that I had been told by both the U.S. Attorney's office (Mac Dodson), and the FBI (Steve Irons) that this was a highly prosecutable case of check kiting. I also told her that I disputed the declination of that referral on the basis of "insufficient information". She commented that "that's what Grand Juries are for", and I pointed out that it generally seemed to be the policy of the U.S. Attorney to agree to open a case before they would start Grand Jury proceedings. I also noted that I found the treatment of that particular referral by the Justice Department to be highly unusual. This concluded our discussion.

Thrift investigators criticize effort to streamline RTC

Some say new rule putting them under charge of agency's civil lawyers raises conflict issue.

By MIKE McGRAW
and JEFF TAYLOR
Staff Writers

A new rule that lawmakers hoped would give the government more time to scrutinize Madison Guaranty Savings & Loan — the failed Arkansas thrift at the center of the Whitewater scandal — is drawing heavy flak from some thrift investigators.

Last month, the Resolution Trust Corp. received a two-year extension on the time it has to file civil fraud actions against failed savings and loans. The reform, which was opposed by the Clinton administration last year, applies to all failed thrifts but takes on added urgency because of the Whitewater investigation.

Without the extension, the RTC would have had to file civil charges against Madison Guaranty by Feb. 28.

But as part of that broad effort to streamline the RTC, criminal investigators this week began reporting to a branch of the agency that has been accused by investigators in Kansas City and elsewhere of stalling the Whitewater investigation.

For the first time, the RTC's criminal investigators, including those currently investigating Madison, are under supervision of lawyers in the agency's Professional Liability Section.

The change was intended to correct RTC management problems raised in recent congressional hearings, but several agency sources claim that the PLS comprises the "political arm" of the RTC. "This is the death of the RTC investigations division," warned one senior agency criminal investigator.

Other RTC sources say the move at least is a potential conflict of interest. They point out that a PLS lawyer pursuing a civil case against a thrift official could be in the position to send a criminal referral to the Justice Department if the civil case were not settled — an action some RTC lawyers viewed as a form of extortion.

Tom Burnside, a former PLS lawyer now in private practice in St. Louis, said traditionally there was a clear wall separating criminal investigators from the civil lawyers at PLS.

Anne Freeman, an RTC spokeswoman in Washington, said agency officials would not respond to claims that lawyers in the Professional Liability Section might be in a position to impede investigations for political reasons.

The dispute between investigators and PLS lawyers, who pursue civil claims against officials of defunct thrifts, came to a head recently when Kansas City investigators claimed the PLS lawyers and others pressured them to alter or suppress findings in the Whitewater case.

Wednesday, March 30, 1994
The Kansas City Star A-7

94 13:39 KANSAS CITY STAR

13217

[illegible]
6-30-94

FAX TRANSMITTAL

1789

Office of the General Counsel
DEPARTMENT OF THE TREASURY
1500 Pennsylvania Ave., N.W., Room 3000
Washington, DC 20220
***Telephone*: (202) 622-0287**
***FAX*: (202) 622-2882**

FROM: Stephen McHale

DATE: 6/30/94

PAGES TO FOLLOW: 1

TO: John E. Ryan

SUBJECT: ______________________________

Addressee FAX No.: 416-4009 **Confirmation No.:** ______________

Notes and Special Instructions:

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

June 30, 1994

Mr. John E. Ryan
Deputy and Acting Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Ryan:

Today, Independent Counsel Robert Fiske announced that he has completed his investigation as it relates to contacts between White House and Treasury officials concerning the Resolution Trust Corporation's work with respect to Madison Guaranty Savings and Loan Association. As you may be aware, when the matters relating to such contacts came up, I asked the Office of Government Ethics to advise me of any ethics or conflicts issues raised by such contacts, and offered the assistance of Treasury staff in that endeavor. Treasury's Office of Inspector General has indicated to OGE that it would assist OGE by conducting fact-finding regarding the contacts. However, at Independent Counsel Fiske's request, Treasury's Inspector General and OGE independently agreed to defer their work in response to my request until Mr. Fiske notified them that their work would not interfere with Mr. Fiske's investigation.

Today, I asked both Treasury's Inspector General and OGE to proceed with their work, and I urged them to complete that work before the Congressional hearings into the contacts. I understand that Treasury's Inspector General has viewed the assistance of RTC's Inspector General as important in this effort because of the need to interview one or more officials at RTC and that Treasury's and RTC's IGs have discussed this need. I would very much appreciate it if you would ask RTC's Inspector General to work with Treasury's Inspector General in providing a timely and thorough review of the facts relating to the Treasury/White House contacts.

Thank you for your assistance in this important effort.

Sincerely,

Lloyd Bentsen

Lloyd Bentsen

13219

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13055

United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 10, 1994

RECEIVED
JAN 21 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Mr. Roger Altman
Acting Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

Enclosed please find a copy of a letter we sent today to Attorney General Reno. We would appreciate it if you would consider the request we made therein with respect to our concern that the running of the statute of limitations may prevent the final resolution of all allegations relating to Madison Guaranty Savings and Loan.

Thank you.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

Bill Clinger

Bob Michel

Larry Pressler

13224

DONALD W. RIEGLE, JR. MICHIGAN, CHAIRMAN

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 11, 1994

Honorable Janet Reno
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Reno:

We regret that you have rejected Congressional requests to appoint a special counsel to examine the allegations of potential misconduct that have recently surfaced concerning Madison Guaranty Savings and Loan ("Madison") and the Whitewater Development Corporation ("Whitewater").

Of course, we express no opinion as to whether any of the allegations are, in fact, true. Nor do we express any view as to who may, or may not, be involved in any misconduct. Nevertheless, we are writing to urge you to act immediately to seek agreements to toll the relevant civil and criminal statutes of limitations, which are now expiring.

While we have our differences with you over whether to appoint a special counsel under your authority, or an independent counsel following reauthorization of the Independent Counsel Act, we trust that we are pursuing a common objective: a fair investigation conducted in an objective, impartial and independent fashion. The American people, the President, and Mrs. Clinton deserve nothing less.

We are concerned, however, that the goal of fairness and the opportunity for the President and Mrs. Clinton to dispel any doubts about their lack of personal involvement in any of the alleged misconduct may be hampered by the frequent and unfortunate delays in this case. As you are aware, Madison failed and was taken over by the Resolution Trust Corporation in 1989; many of the allegations concerning Whitewater stem from the mid-1980s. However, due to various factors, including the delayed recusal of key officials in your Department and the U.S. Attorney in Little Rock, these allegations have not been pursued in an expeditious manner. As a result, immediate action is now critical.

Under the Federal Deposit Insurance Act, the RTC has only a five year period in which to bring a civil suit for fraud, starting from the date it became the

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conservator or receiver of a failed institution. Thus, the ability of the RTC to take civil action may expire as early as March, 1994. The statute of limitations for criminal actions involving bank fraud is 10 years from the date of the occurrence of the criminal activity.

In order to resolve any and all questions regarding Madison and Whitewater, we urge you and the RTC to seek voluntary agreements with all relevant parties, including the President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward, and the Rose Law Firm, to toll the running of the statutes of limitations -- in other words, to seek their agreement to voluntarily waive these defenses. These agreements will allow time for a complete and independent investigation and permit the orderly operation of the legal and judicial processes. It will also remove any doubt that the above named parties may seek to use the statute of limitations as a procedural defense. Furthermore, it will reassure the American public that anyone implicated in any wrongdoing will answer these allegations on their merits.

Attorney General Reno, thank you for your consideration of this request.

Sincerely,

Bob Dole

Alfonse D'Amato

Jan Meyers

James Leach

Bill Clinger

Hamilton Fish

Larry Pressler

Bob Michel

cc: **Roger Altman**
Resolution Trust Corporation

13226

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

January 25, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

I am writing to you in connection with the letters of January 11, 1994, to Attorney General Janet Reno and yourself, expressing the grave concern that I and a number of my colleagues have regarding the expiration of the applicable statutes of limitations with respect to possible wrongdoing at Madison Guaranty Savings and Loan ("Madison"). We urged that voluntary agreements tolling the statute of limitations be sought with all the relevant parties. That letter addressed the urgent need for immediate action with respect to any violations that may have occurred, since the applicable statute of limitations may expire as soon as March, 1994.

More than two weeks have passed since we raised this vital issue. In his public comments, Special Counsel Fiske has already demonstrated his recognition of, and sensitivity to, the applicable criminal statutes of limitations.

I have yet to be apprised of what action, if any, the RTC has taken to ensure that the applicable civil statute will not expire. The American people have the right to know if any wrongdoing took place in connection with Madison. It is equally important that the rights of the American people to obtain a full accounting against wrongdoers be preserved.

13227

The RTC should do all in its power to protect the American taxpayer by making a definitive interpretation of precisely when the civil statute of limitation will expire, and then take action to voluntarily seek agreements from potential parties to RTC-initiated legal actions. Should the statute of limitations run, any findings that the RTC makes will be meaningless--there will be no hearing and the American people will be left without complete redress.

Members of the Banking Committee staff have discussed the need for meaningful action with representatives of the RTC. My staff was informed that the RTC had not yet made a final analysis with respect to the expiration of the statute of limitation. They were also informed that no response was immediately available, more than two weeks after this issue was raised--this is inconceivable and unacceptable.

In light of the RTC's failure to respond to these concerns for over two weeks, I am compelled to write again to ascertain what action the RTC has taken, so that I may consider alternate avenues that I can pursue in order to protect the interest of the American people with respect to this matter. I can see no reason for further delay on your part. Please provide me with your conclusions as to the application of the relevant statute of limitations with respect to the Madison situation immediately.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican
Senate Banking Committee

AMD:dn

13228

RT-12661

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Larry Pressler
United States Senate
Washington, D.C. 20510

Dear Senator Pressler:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

13235

RT-12662

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Robert H. Michel
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Leader:

On January 11, 1994 you wrote to Attorney General Reno and me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know , the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

13236

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

February 8, 1994

Mr. Peter Knight
Director
Office of Governmental Relations
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

[illegible]

Dear Mr. Knight:

Pursuant to your conversation with Doug Nappi, of the Banking Committee, please provide the answers to the following questions:

1) The number of times that an RTC Chief Executive Officer has recused himself from involvement in matters before the RTC;
2) A summary of the grounds that led to the recusal decision; and
3) The RTC's policies or guidelines pertaining to recusals;

If you have any questions regarding this request, Mr. Nappi can be reached at (202) 224-3737.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
Ranking Republican Member

AMD:sb

13237

RTC
RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

February 18, 1994

Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing,
  and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

This letter is in response to your letter of February 8 requesting the number of times the RTC's Chief Executive Officer has recused himself from involvement in matters before the RTC, a summary of the grounds that led to the recusal decision; and the RTC's policies or guidelines pertaining to recusals.

During his tenure, Albert V. Casey, former Chief Executive Officer, recused himself by memorandum to the RTC's Ethics Office from three matters that came before the RTC. Mr. Casey did not state the grounds that led to two of his recusal decisions. Under 12 CFR 1605 an employee may recuse himself or herself from matters in which the employee believes he or she may have a conflict of interest. In the third instance, Mr. Casey recused himself from any RTC matters involving a member of his immediate household.

Mr. Casey further had executed an Ethics Agreement in which he committed to recusing himself from any entity in which he held a financial interest, as well as any other interest derived from pensions of five corporations. Mr. Casey also disqualified himself from participating in any RTC matter effecting his five creditors should such a matter come before him.

During his tenure, Roger C. Altman, Interim Chief Executive Officer, has not needed to recuse himself from any matter before the RTC. Mr. Altman has recused himself from matters that could have a direct and predictable effect upon his financial interest, his former partners, or clients, should such matters come before him as the RTC's CEO.

801 17th Street, N.W. Washington, D.C. 20434

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The RTC's policies and guidelines pertaining to recusal are founded in the criminal statute and the standards of conduct regulations. Specifically, 18 USC 208, 5 CFR 2635, and 12 CFR 1605, as amended, provide the basis for an employee's recusal from any official government matter which could result in a conflict of interest or an appearance thereof. Employees may recuse themselves simply by not participating in a matter at such time that the matter, in which they may have a conflict, comes before them. Although employees are not legally required to put their recusals in writing, we encourage employees to document recusals either by internal memorandum or by electronic mail. In addition, during our review of financial disclosure forms, our Deputy Ethics Counselors (DECs) issue disqualification letters to employees on matters in which there may be an obvious and real conflict of interest, should such a matter come before them. This is done to ensure that the employees are in compliance with the criminal statutes or standards of conduct regulations. These disqualifications would include certain financial interests, extensions of credit in excess of $10,000, and prior employment.

Disqualifications are usually between the employee, his or her DEC, and the RTC's Ethics Office. Supervisors or other management officials are usually not made aware of these disqualifications until such time as a conflicted matter arises with the conflicted party. The conflicted employee's supervisor must then assume responsibility for the matter or reassign the matter to another individual at or above the level of the conflicted employee. Notice of this reassignment is made known to those who have a need to know.

Both Mr. Casey and Mr. Altman informed members of the RTC's Executive Committee and the RTC's Secretary of their recusals.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

Peter E. Knight
Director
Office of Governmental Relations
(202) 416-2116

DONALD W. RIEGLE, JR. MICHIGAN, CHAIRMAN

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HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

March 6, 1994

RECEIVED
MAR 10 1994
OFFICE OF GOVERNMENTAL RELATIONS
RTC

Mr. Roger Altman
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

Dear Mr. Altman:

During the recent RTC Oversight Board Hearing, you made some startling disclosures about a "heads-up" briefing that you and Treasury General Counsel Jean Hanson gave top White House insiders. Your testimony triggered another disclosure about two earlier clandestine White House meetings. The list of participants in these meetings includes many top Administration figures and political operatives, including White House Counsel Bernard Nussbaum and Ms. Hanson.

Ms. Hanson has been described as one of "Treasury's top political team." In light of her prominent behind-the-scenes role in the handling of the Madison affair, and her role at the Department of Treasury, I would like to know whether Ms. Hanson was present at the RTC Oversight Board hearing on February 24th. As the top legal advisor to the Secretary of Treasury and the Department's chief law officer, it would make sense for her to attend a hearing where people she advises--namely, Secretary Bentsen and yourself--were testifying.

If Ms. Hanson did attend, why did she did not come forward and brief the Committee members, and witnesses, including yourself, about these other questionable White House meetings in which she participated? The American people and Congress have a right to demand and expect from high-ranking administration figures such candor and honesty. In addition, did she ever brief you on these earlier meetings? If she did not brief you about these meetings was she not derelict in her duties?

13240

Thank you in advance for your assistance.

Sincerely,

Alfonse D'Amato

Alfonse M. D'Amato
United States Senate

13241

O:\JEN\JEN94.412 S.L.C.

103D CONGRESS
2D SESSION
S. RES. ____

IN THE SENATE OF THE UNITED STATES

Mr. D'AMATO (for himself ____________ ____________
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____
____
____
____
____________) submitted the following resolution; which was ____________

RESOLUTION

Establishing a special subcommittee within the Committee on Banking, Housing, and Urban Affairs to conduct an investigation into allegations concerning the Whitewater Development Corporation, Madison Guaranty Savings and Loan Association, and Capital Management Services, Inc., and other related matters.

1 *Resolved*,

13242

(D) the policies of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies regarding legal representation of the agencies, including conflicts of interest and cost controls;

(E) the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency;

(F) the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association;

(G) the pursuit by the Resolution Trust Corporation of civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(H) the pursuit by the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation of administrative and civil causes of action against potentially liable parties associated with Madison Guaranty Savings and Loan Association;

(I) the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association;

(J) the delayed recusal of the United States Attorney for the Eastern District of Arkansas from the investigation or prosecution of David Hale, Capital Management Services, Inc., and Whitewater Development Corporation;

(K) the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation;

(L) the Park Police investigation into the death of White House Deputy counsel Vincent Foster;

(M) the operations and underwriting activities of the Arkansas Development Finance Authority;

13244

(N) the circumstances surrounding and the propriety of the commodities-futures trading activities of Hillary Rodham Clinton;

(O) the investment activities of Value Partners I, including the compliance of these activities with Federal laws governing conflicts of interest;

(P) any other issues related to the matters referred to in subparagraphs (A) through (O); and

(Q) any issues developed during, or arising out of, the hearings conducted by the special subcommittee; and

(2)(A) to make such findings of fact as are warranted and appropriate;

(B) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the special subcommittee may determine to be necessary or desirable; and

(C) to fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

(c) For purposes of this section, the term "Madison Guaranty Savings and Loan Association" includes any

13245

subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

MEMBERSHIP AND ORGANIZATION OF THE SPECIAL SUBCOMMITTEE

SEC. 2. (a)(1) The special subcommittee shall consist of—

(A) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the chairman;

(B) 5 members of the Committee on Banking, Housing, and Urban Affairs appointed by the ranking member;

(C) 3 members of the Senate appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate; and

(D) 3 members of the Senate appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

(2) Vacancies in the membership of the special subcommittee shall not affect the authority of the remaining members to execute the functions of the special sub-

13246

committee and shall be filled in the same manner as original appointments to it are made.

(3) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the special subcommittee shall not be taken into account.

(b)(1) The chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs shall be cochairmen of the special subcommittee.

(2) A majority of the members of the special subcommittee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that a quorum shall not be necessary for the purpose of taking testimony before the special subcommittee or for conducting the other business of the special subcommittee.

(c)(1) The special subcommittee shall promptly adopt appropriate rules and procedures consistent with this resolution.

(2) The rules and procedures of the special subcommittee shall—

(A) govern the proceedings of the special subcommittee; and

(B) consistent with section 6 of this resolution—

(i) provide for the security of the records of the special subcommittee; and

(ii) prevent the unauthorized disclosure of information and materials obtained by the special subcommittee in the course of its investigation and study.

STAFF OF THE SPECIAL SUBCOMMITTEE

SEC. 3. (a)(1) Committee staff from committees having jurisdiction over matters described in section 1(b) shall be detailed to the special subcommittee, subject to availability, as requested by the cochairmen.

(2) In addition to staff detailed pursuant to paragraph (1) and to assist the special subcommittee in its investigation and study, the cochairmen, after approval of the special subcommittee, may appoint special subcommittee staff.

(3) All staff detailed pursuant to paragraph (1) or appointed pursuant to paragraph (2) shall work for the special subcommittee as a whole, shall report to the two cochairmen and, except as otherwise provided by the special subcommittee, shall be under the direction of the cochairmen.

(b) To assist the special subcommittee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special subcommittee.

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(c) The Majority and Minority Leaders of the Senate may each designate one staff person to serve on the staff of the special subcommittee to serve as their liaison to the special subcommittee.

(d) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate assistance may be required by the special subcommittee.

PUBLIC ACTIVITIES OF THE SPECIAL SUBCOMMITTEE

SEC. 4. (a) Consistent with the rights of persons subject to investigation and inquiry, the special subcommittee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the special subcommittee—

(1) shall hold, as either cochairman considers appropriate, open hearings on specific subjects, subject to consultation and coordination within the independent counsel appointed pursuant to chapter 28, part 600, of the Code of Federal Regulations (referred to as the "independent counsel");

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(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains a description of all relevant factual determinations consistent with subsection (a) of this section and section 1(b)(2) and which contains recommendations for new legislation, if necessary.

POWERS OF THE SPECIAL SUBCOMMITTEE

SEC. 5. (a) The special subcommittee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) The special subcommittee is authorized to issue subpoenas for obtaining testimony and for the production of documentary or physical evidence. A subpoena may be authorized and issued by the special subcommittee, acting through either cochairman or any other member designated by either cochairman, and may be served by any person designated by either cochairman or other member anywhere within or without the borders of the United States to the full extent permitted by law. Either cochairman of the special subcommittee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the subcommittee.

(c) The special subcommittee is authorized to do the following:

(1) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special subcommittee considers necessary or appropriate.

(2) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(3) To hold hearings, take testimony under oath, and to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(4) To request a grant of immunity under section 6005 of title 18, United States Code, after consultation with the independent counsel.

(5) To require by subpoena or order the attendance, as witnesses before the special subcommittee or at depositions, of any person either cochairman determines may have knowledge or information concerning any of the matters the special subcommittee is authorized to investigate and study.

(6) To take depositions and other testimony under oath anywhere within the United States, to issue orders by either cochairman or any other mem-

ber designated by either cochairman which require witnesses to answer written interrogatories under oath, and to make application for issuance of letters rogatory.

(7) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special subcommittee, acting through either cochairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(8) To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the special subcommittee any book, check, canceled check, correspondence, communication, document, financial

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record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such subcommittee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(9) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the special subcommittee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such subcommittee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the subcommittee, or at a deposition, or at any time or place designated by the subcommittee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(10) To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(11) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned, the services of personnel of such department or agency.

(12) To use, with the prior consent of the chairman or ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such other Senate committee whenever the special subcommittee or either cochairman consider that such action is necessary or appropriate

to enable the special subcommittee to make the investigation and study provided for in this resolution.

(19) To have access through the agency of any members of the special subcommittee, staff director, chief counsel, or any of its investigatory assistants designated by either cochairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the special subcommittee is authorized to investigate or study;

(B) which is in the possession, custody, or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the special subcommittee to prepare for or conduct the investigation and study authorized and directed by this resolution.

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(14) To report violations of any law to the appropriate Federal, State, or local authorities.

(15) To expend, to the extent the special subcommittee determines necessary and appropriate, any money made available to such subcommittee by the Senate to make the investigation, study, and reports authorized by this resolution.

(16) Under sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, to inspect and receive for the fiscal years 1977–1992 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the special subcommittee as possible participants, beneficiaries, or intermediaries in the transactions under investigation.

(d) The level of compensation payable to any employee of the special subcommittee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate. No employee of the special subcommittee may receive pay at a rate of pay in excess of the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

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PROTECTION OF CONFIDENTIAL INFORMATION

SEC. 6. (a) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the special subcommittee.

(b) The case of any Senator who violates the security procedures of the special subcommittee may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the special subcommittee shall immediately be subject to removal from office or employment with the special subcommittee or shall be subject to such other sanction as may be provided in the rules of the special subcommittee.

(c) Upon the termination of the special subcommittee pursuant to section 9 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the special subcommittee, under appropriate conditions established by such subcommittee, shall be transferred to the National Archives.

RELATION TO OTHER INVESTIGATIONS

SEC. 7. (a) In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution;

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(2) promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such investigation,

the special subcommittee is encouraged—

(A) to coordinate, to the extent practicable, its activities with the investigation of the independent counsel;

(B) to seek the full cooperation of all relevant investigatory bodies; and

(C) to seek access to all information which is acquired and developed by such bodies.

(b) The cochairmen shall meet with the independent counsel to obtain relevant information concerning the status of the independent counsel's investigation to assist in establishing a hearing schedule for the special subcommittee.

(c) The Senate requests that the independent counsel make available to the special subcommittee, as expeditiously as possible, all documents and information which may assist the special subcommittee in its investigation and study.

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SALARIES AND EXPENSES

SEC. 8. Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special subcommittee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(c)(9). Payment of expenses shall be disbursed upon vouchers approved by either cochairman of the special subcommittee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

REPORTS; TERMINATION

SEC. 9. (a)(1) The special subcommittee shall make a final public report to the Senate of the results of the investigation and study conducted by such subcommittee pursuant to this resolution, together with its findings and any recommendations at the earliest practicable date.

(2) The final report of the special subcommittee may be accompanied by whatever confidential annexes are necessary to protect confidential information.

(b) After submission of its final report, the special subcommittee shall conclude its business and close out its affairs as expeditiously as practicable.

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SUBCOMMITTEE JURISDICTION AND RULE XXV

SEC. 10. The jurisdiction of the special subcommittee is granted pursuant to this resolution notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

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Transcript of Hearings

Before The

United States Senate

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Hearing on

THE SEMI-ANNUAL REPORT OF THE RESOLUTION TRUST CORPORATION THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Washington, D. C.

THURSDAY, FEBRUARY 24, 1994

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NATIONWIDE COVERAGE

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DIETRA FORD
Executive Director, RTC Thrift Depositor Protection Board, Washington, D. C.

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Hearing on

THE SEMI-ANNUAL REPORT OF THE RESOLUTION TRUST CORPORATION THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

THURSDAY, FEBRUARY 24, 1994

United States Senate
Committee on Banking, Housing,
and Urban Affairs
Washington, D. C.

The committee met in Room 538 of the Dirksen Senate Office Building at 10:05 a.m., the Honorable Donald W. Riegle, Jr., chairman of the committee, presiding.

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The Chairman. The Committee will come to order.

Let me welcome all those in attendance this morning.

I want to say again to my colleagues how much I appreciate the cooperation yesterday in reporting out the Interstate Banking Bill. I think the fact that we were able to act unanimously was a very important statement of how good that piece of legislation is, and the cooperation back and forth across both sides of the Committee dias.

This morning we welcome the RTC Thrift Depositor Protection Oversight Board. And there are here to discuss with us their semiannual report regarding the activities and the operations of the RTC.

Treasury Secretary Lloyd Bentsen, our former colleague, serves as Chairperson of the Oversight Board, and Deputy Secretary Treasurer Roger Altman is Acting Chief Executive Officer of the RTC will be the ones testifying directly today.

The other members of the Board are also here today and are available for your questions, and we will have some for them.

They are Alan Greenspan, Chairman of the Federal Reserve.

Andrew Hove, who is the Acting Chairperson of the FDIC.

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And Jonathan Fiechter, who is the Acting Director of the Office of Thrift Supervision.

The FIRREA legislation required that the Oversight Board make semiannual appearances before this Committee. This now is the seventh such semiannual appearance here.

At all these hearings, the Oversight Board has been required to update the Committee on the progress that the RTC has made in resolving thrifts under its control and its efforts to sell assets of failed thrifts.

The RTC currently has 63 conservatorships that remain to be resolved.

As of year end, the RTC had assets in those conservatorships and in receiverships with original book values of approximately $66 billion. Two-thirds of that amount is in what the RTC calls "hard-to-sell" categories. Well, the RTC has so far disposed of more than $393 billion in assets, or approximately 90 percent of their book value, lately, progress appears to have slowed markedly in selling RTC assets.

Despite the provision by Congress last fall of ample funding to permit the RTC to complete its task for resolving failed thrifts, and a financial plan that calls for the resolution of 43 institutions in the first quarter of this year, the RTC has resolved no conservatorships since

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early December.

Furthermore, sales of hard-to-sell assets i the second half of last year fell to less than half of those sold in the previous year. So we hope and expect that our witnesses today will be able to advise us as to when we can expect a resolution activity to resume, and whether the slower pace of asset sales simply reflects the fact that they are now down to the point of selling very difficult to sell assets, and if so, we need to have that explained to us.

The RTC is of course scheduled under present law to terminate on December 31, 1995. Any assets that the RTC is unable to dispose of by that date will be transferred to the FDIC. At the same time, the FDIC will have to reabsorb up to 1,600 RTC employees who have the right to return to the FDIC.

Obviously managing that transition alone will be a difficult task. So we will want to hear what progress has been made in planning for the transition to the FDIC, and how large a pool of assets the RTC expects to leave when it goes out of business for ultimate disposition by the FDIC.

Now the RTC has been criticized extensively for the way it has conducted its operations over the years. We have had numerous GAO reports pointing out problems and have heard testimony from many witnesses detailing past mistakes.

Last March, here, Secretary Bentsen promised this Committee that he would undertake a series of management reforms at the RTC to address issues of waste, fraud, abuse and mismanagement.

Congress incorporated the requirement for those reforms and a number of others into last year's final funding legislation, so we are very interested in learning what changes had been made and how successful those changes appear to be.

Finally, the Committee held a hearing last September which a large panel of impressive and credible whistleblowers testified. Based on that, I asked the RTC to investigate their claims and I want to hear today what has been done to evaluate those claims and what collective actions have been taken.

These whistleblowers testified about waste and mismanagement involving, among other things, the contracting oversight, professional liability activities, and asset disposition efforts of the agency.

So we look forward to the Oversight Board's testimony on this matter, as well as its presentation on the progress made by the RTC at this time.

I might just add one other thought just to sort of put everything into context, and that is that over the

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years, since we began this process of dealing with the failed thrifts, in August of 1989, we provided $50 billion. In March of 1991, $30 billion, December of 1991, another $25 billion, but only $7 billion of that was actually spent by the April 1992 deadline.

And then in December of last year, we approved what we understand to be the final funding leg which carries with it unspent funds previously provided, a total of $18 billion provided in December of 1993, which brings us up, if you add up all those numbers and do the offsets, to a figure of 105.

My understanding is that there is roughly about $24 billion of that total that is available to complete this job. And if that number is not correct, I would appreciate having you give for us today as accurate an assessment of those numbers as you can.

Now what I am going to do this morning, I am going to, in a moment, call on Senator D'Amato, and because I know there are going to be questions that members want to ask, I want to reserve as much time as I can today for questions.

So after Senator D'Amato makes his opening statement, I will call on other members, but I would like to ask members on both sides in the opening statements today if they could be brief in what they say, so that we can get

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into the presentations and get into the questions.

Senator D'Amato?

Senator D'Amato. Thank you very much, Mr. Chairman.

Mr. Chairman, let me first, at the outset, thank you for your cooperation in this matter, for calling this hearing, and for also joining with me and other of my colleagues in requests that we have made of the RTC for information.

I think it is fair to say that without your having joined with us, some of the information that was made available and some responses that we received would never have been received.

We may question the adequacy of those responses but, were it not for your help, we would not have had any.

I am going depart from my prepared remarks for a moment because something quite unusual took place last evening. I call it the midnight delivery.

Boxes of material began arriving at our Banking Committee office after hours. One came in close to 10:00 o'clock. The most interesting of them, I found, was this RTC conflict of interest analysis of the Rose Law Firm. I was not even aware that there had been such an analysis, and of course we have been asking that now, through staff and through letters, for quite awhile. What has been taking place?- What are you doing? What action is taking place?

I must say that if this constitutes the bulk of the action, it is quite deplorable.

I must say that this document is dated, Mr. Chairman, February 8th, and yet we get it, as I called it, in that midnight delivery last evening along with 100 pages of attachments or 200 pages of attachments. Even if you took that Evelyn Wood speed reading course, I think you would have difficulty getting through it all.

And delivered last evening well after office hours where staff just really had an opportunity and I have just had an opportunity to read it for the first time. We will make it available.

I have to say this to you. Were it not for some media report; it was the Washington Times, we had no inkling, no idea, before we actually asked specifically for this report I think last week, and that obviously was available since February 8th.

I will just refer to, and this was the first time literally, at ten minutes to 10:00, that I had an opportunity to look at it.

Scope of the Investigation. This investigation focused on whether or not the Rose Law Firm discloses previous representations of matters into the FDIC and the RTC. I underlined a little part. I think it is quite

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fascinating and interesting, and I hope my staff has been able to pass it out to my colleagues, any colleagues interested in it.

Interviews of current or former Rose Law Firm attorneys who may be knowledgeable on this mater were not conducted.

This is really one heck of a thorough report. I mean, interviews of those people who were knowledgeable were not conducted.

It goes on at the end summary, Rose did not represent matters and prior to its failure of the savings and loan, but it does talk about the fact that there are some very interesting, and I leave it for the media and others and some of the lawyers to analyze what they knew, what they did not know, the accounting firm that they were called upon to sue, that they had used and before state regulatory agencies, in order to put out an underwriting.

I find if that is not a conflict, certainly in the utilization of that law firm to sue these people who they had hired and settle the suit for considerably less than it was initiated on certainly raises with this Senator, and that is known as the Frost matter.

It concludes by saying that this report is provided to the Office of General Counsel for any action it deems appropriate. That was sent on the 8th.

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I am going to give you a little time, Mr. Altman. I spoke to you last night, the deputy secretary, said some of the questions I was going to ask you. So let me tell you, I am going to ask you what has taken place, what action is taking place, who's revealing this, because I have to tell you I find this unacceptable. This is the kind of thing that just does not square up.

Then it goes on, it says this investigation was coordinated with the FDIC who conducted a separate and independent investigation of this matter and the FDIC attorney is John Downing. And of course I saw his report which I think leaves a lot to be desired.

So, Mr. Chairman, I am sorry to have to open the hearing in this manner, but when documents of this import are dropped on us at midnight, that is not fair to us, it is not fair to the American people, it is not fair to the good work and the hard work that has been done by lots of people in the RTC in resolving many of the disputes. Because I think we have come a long way towards meeting many of the goals.

I am going to ask that the rest of my statement be placed in the record as if read in its entirety.

But I will say this to you. I have been troubled about the handling and the manner in which the Madison Whitewater situation has been handled. I have been criticized about it. This is political.

Let me say this. We do not ask for any special treatment, nor do we expect that people who come from high places or powerful positions that there be special treatment accorded. We say that the law should be afforded to everyone.

And were it not for Senator Metzenbaum and Senator Murkowski and our resolution that extended the statute of limitations, and that was done overwhelmingly in the Senate and in the House, why, the statute of limitations of February 28th would have been upon us.

The RTC had no way of knowing that that was going to take place. They never anticipated it. And so when we asked what, if anything, was being done by way of a lawsuit, I see what was being done: nothing. I see what we had as an analysis as it relates to any possible conflict, and i see a referral over to general counsel.

And I can say that it was only fortuitous that the situation built and we were able to at least extend that statute to 1995.

I am going to ask, because I know we want to get to some questions, and I know that other of my colleagues have questions to raise, but I will be asking members of the RTC Oversight Board, many of the same questions I have raised in my letters and on the floor of the Senate.

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As I have indicated, last evening I had a very brief discussion with the Acting Chairman who is, by the way, I think placed in a very difficult position through no fault of his own.

I think Mr. Altman finds himself in a position where here he is, a presidential appointee, running the RTC, now eleven months. I do not know how he handles the situations which put him into possible conflict where he has to be making decisions as to what to do, what actions to take or not to take, as it relates to the Whitewater matter specifically.

I know he's indicated to me that his term is up March 30th, and he cannot wait for that to take place, for it to end. I do not blame him. But I have to tell you, I would like to know who is supervising this, what is taking place.

And, Mr. Chairman, I would also like to put forth to you a request, and you have been extremely fair. It seems to me that this Committee has an obligation to find out and get out all of the facts, not to impede the special prosecutor and/or his undertaking.

That I would hope, Mr. Chairman, that you would, in a bipartisan fashion, as you have moved forward, in seeing to it that the documentation of the facts as it relates to this case are made available to the Committee, to

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the Committee and/or its staff, so that we can see to it that what should be done is being done.

There are just too many questions that are unanswered in this situation to date. There are not satisfactory explanations. See to it that all the documentation that can and should be provided to the appropriate authorities is done so, certainly on the civil side.

The criminal side, that is another matter.

So later on, I will have a formal request to put forward to you, Mr. Chairman, but I would hope that we could join and do this in a bipartisan fashion.

And I thank the Chair.

(COMMITTEE INSERT.)

13275

The Chairman. Well, we will take that up later when you present that point.

Let me just, for completeness of the record, ask unanimous consent to insert the letter that you sent over to the RTC dated February 18th, requesting these documents that arrived last evening.

And I think it is important to note that this request, which will be in the record, was made last Friday, and members here can account for why the documents arrived last evening.

But I do think it is important to note that the request you made was not all that long ago, and the materials that they have assembled are now here.

But --

(COMMITTEE INSERT.)

Senator D'Amato. Well, Mr. Chairman, for point of amplification, let me say that my staff has been requesting this by way of telephone, by way of talking to staff over a period of time.

We did not even learn of the existence, and I do not know if anybody else knew of the existence of this report, as it relates to the RTC and the possible conflict, until February 17th, and we only learned about that, I think, as a result of an article that appeared in the media.

Now it is one heck of a thing, when we are asking for information, and get little, if any, that we have to learn of the possible existence of this through the media. And that is what prompted us to then formally request this by way of a letter.

And I have to tell you something. If they had this report, they could have sent it over on Friday. They could have sent the report over on Tuesday morning.

You certainly do not wait until the end of business on Wednesday evening and send the report over at 9:00 o'clock, 9:30; that is wrong. That is simply wrong.

And if you want to talk about stonewalling, that is what has been going on. Obfuscation, that is what has been going on.

If I have any faith in terms of how this matter is being pursued, the answer is absolutely not.

(1327)

The Chairman. Senator Murray?

Senator Murray. Thank you.

Mr. Chairman, almost a year ago, we sat in this very room and considered the Thrift Depositor Protect Act of 1993.

The program and funding for the Resolution Trust Corporation was not an easy process nor one without pain. And along with you and other members of this Committee, I insisted on increased accountability for all RTC spending.

I did that with the hope that we could put the RTC out of business as soon as possible, save the taxpayers significant amount of money, and get on with other important national needs and goals.

I am disappointed that, in spite of assurances which this Committee was given last March, that there is still no permanent head of the RTC.

Mr. Chairman, I have a great deal of respect for Roger Altman, but I cannot understand how he can possibly have the time or energy to undertake two of the most demanding positions in our government: Deputy Secretary of the Treasury and the interim Chief Executive Officer of the RTC.

Management reforms start with a permanent manager.

Along with my colleagues, Senator Boxer and

Senator Moseley-Braun, I wrote to President Clinton December 16th, urging him to appoint a new head of the RTC. We want the President to make this a top priority.

And I will be very interested today to learn, in detail, the progress of the search and the Administration's commitment to that.

Another issue of great concern to my constituents is the effect of the rising interest rates that will have on the recovering S&L industry. I am very interested to hear Chairman Greenspan's thoughts in that area.

The kinds of activities that resulted in the creation of the RTC were generally not found in financial institutions in my home State of Washington.

Every banker in my state brings to me regulatory problems which she or he blames on the S&L crisis.

Mr. Chairman, relatively few thrifts failed in my state. Washington's financial institutions are among the most community-minded in this nation. CRA ratings for our banks are among the highest in the nation.

The people in the Pacific Northwest feel they did not cause this problem, but they surely know that they are paying for it. Most of the problems associated with the RTC occurred during the two previous administrations. Much of the anger which people feel about RTC however has not subsided.

(13279)

Mr. Chairman, people want us to put this sorry chapter in American financial history behind us

I know there is a lot of work being done, but the public wants to know what has been achieved.

I urge the Administration once again to make closing the RTC a top priority.

Thank you.

The Chairman. Senator Bond?

Senator Bond. Thank you, Mr. Chairman.

In probably a man-bites-dog reversal of fortunes around here, when we have people from the financial regulatory institutions before us, I want to congratulate you and thank you for the good jobs that you have done.

We are seeing a significantly lower deficit because of the successful resolution of many of the savings and loans. The men and women who have worked all these years, they have not just sprung to life in the last few years, in the last year, they have done a good job. We are resolving thrifts, failed thrifts more successively.

We have benefitted from low interest rates, and I appreciate the dedicated work of our independent Federal Reserve.

In doing that, the FDIC premium fund has built up and we are in better shape and there is much praise that should be attributed to a lot of hardworking folks who

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normally only get the blame.

In my questions, I am however going to focus on one particular issue, and that is the position the control retention of documents in the Madison Guarantee case because, frankly, there are a lot of us who have grave concerns about what has happened to the documents.

First we heard Whitewater documents now we did not have any, they disappeared, no, they were not there. Then the tragedy that befell Mr. Foster, everything was accounted for. And Mr. Nussbaum said that he had a list of all the documents.

And the press brought to our attention, after months of hard work, that Whitewater files were in Mr. Foster's office. A search occurred the night of his death and files were taken out by White House political aids.

Then we hear the White House was voluntarily sending documents to the Justice, and the White House had asked for a subpoena.

Then the White House had heard about the subpoena, and it called Justice to negotiate the terms.

We have heard about shredding documents.

We have heard many stories that raise grave concerns about whether the facts will be available for the special prosecutor and others.

And in my question time, I will address some specific questions on that matter.

Thank you.

The Chairman. Thank you.

Senator Kerry?

Senator Kerry. Thank you very much, Mr. Chairman.

I guess our colleagues on the other side of the aisle have sort of signalled an intent, which they have been signalling for some days, to turn a review of the RTC into a dialogue, if that is the word that can be used, on Whitewater.

I will reserve a few comments on that.

I want to first address some of the RTC issues and then sort of mix it in a little bit, perhaps with some of where we are going here.

A year ago, when the Secretary appeared before this Committee with a nine-point plan to reform the Resolution Trust, I remember then expressing my concern that the Treasury did not have an adequate picture of the magnitude of the RTC's problems, including the massive fraud, waste, abuse, etcetera.

I did not hear my colleague from New York suggesting it at that time; I did not hear my colleague from Missouri suggesting it at that time.

I was especially concerned because the

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Administration had very few of its own people in place. And in handling RTC matters, the Administration was forced to rely on the very people who were responsible for the catastrophe of the RTC, a catastrophe which came to us during the last twelve years of non-regulation.

Because the Administration was relying on the old guard, I then expressed my concern that it would be very difficult practically to carry out reforms that the RTC needed.

Now a year later, despite I think heroic efforts by Secretary Altman, the Secretary and others, some real improvements have taken place, and some good people have been appointed by the Administration, but I believe because of the depth of problems which existed at the RTC during the previous twelve years, without adequate regulation, that this Administration has not had time to get a handle on the full measure of shortcomings that existed.

Over the past year, my staff has talked to literally dozens of employees and managers, none of whom have been talked to by my colleagues across the aisle who today express such concern about one institution.

And these people told us of reports of disarray at the RTC that have only scratched the surface. And that in reality, regional offices in the fields, the situation remains worse, something that my colleagues on the other side of the aisle have not seen fit to concern themselves about.

So when my colleague comes here today suggesting that we have got to proceed in a bipartisan fashion on what is very clearly a partisan singling out of one institution, it is very hard for me to really take it that seriously.

And I hope the members of the press and the members of the public, who are watching, understand specifically what is happening here.

On September 23rd, last fall, this Committee took the testimony of some 13 whistleblowers for five hours, and they described a shocking array of problems at the RTC, potentially costing the taxpayers billions of dollars.

Not one of the chairs across the aisle had a Senator sitting in it. Not one republican saw fit to come and care about the RTC when those whistleblowers were here talking to us. But today we are concerned about one institution.

Now we have heard allegations of steering of contracts by RTC personnel to former and future employers. We heard of major accounting firms receiving huge RTC contracts and then hiring inexperienced people off the street, and padding the bills after they did incompetent work.

We were told about faulty computer systems for

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legal billing, thousands of lost invoices, so the RTC could not even determine whether a bill was legitimate or not. We were told about sexual discrimination, physical harassment. We were told about RTC employees being asked by RTC managers to fabricate data for Congress when the real data was unavailable, it would not look good.

We heard allegations of the RTC Inspector General being viewed by employees as in bed with management or incompetent. And we heard particularly disturbing evidence of the government taking a dive in prosecuting cases against S&L wrongdoers in Colorado and Texas.

No hue and cry across the aisle from my colleagues suggesting we ought to extend the statute of limitations. No hue and cry suggesting that we ought to have a special prosecutor for Texas.

Following the hearing, the Treasury promised to respond to the allegations made by these whistleblowers. I still have questions about it but they are working at it; something that never happened in the prior twelve years.

Now despite the hiring of some good people in Washington, I still think there are serious questions today about these abuses and what is happening there.

But I think you have to stop and take a hard look at what is happening here with respect to Whitewater.

We have a special prosecutor, a republican. I believe he contributed to the campaign of Senator D'Amato. He was nominated by President Bush to be a Deputy Attorney General in 1989, but because he was not absolutely in line with all of President Reagan's appointees to the judiciary, he finally withdrew. He was the Chief Prosecutor in Manhattan, appointed by President Ford. President of the American Bar Association, and he is investigating this case.

I do not think you could find a prosecutor in the United States who comes to this with better credentials of impartiality and of substance and capacity.

It seems to me Congress has learned something about invading the prerogatives of special prosecutors and ruining cases by virtue of our intrusion: witness what happened in Iran Contra.

But leaving that aside, I hope the press will be very, very clear. Madison, if you look down the list of cases, these are the list of cases, the cost of bailouts. I would like my colleagues to look at this.

Here is the first page of major bailouts in the United States, beginning with Lincoln Savings, going down. We got First Savings of Arkansas, Little Rock-based. It is number 20, but not a question has been asked about that, obviously. It is worth about $847 million.

You go down to number 34, you have got the Savers in Little Rock, but not a question's been asked about that, nor was it ever by our colleagues.

Then you go for several other pages and there is no other institutions. There are a lot of other big institutions, many of them in Texas, I might add; some of them elsewhere.

Independence Federal Loan in Batesville, Arkansas, but they are not asking about that.

You can go down through the hundreds. They are still not asking any questions. You go down through 137, but they are not asking any questions. You do down through 160, but they are not asking any questions. You go down through 183, but they are not asking any questions.

Then you have got a couple more. And one of them, finally, number 194 is Madison, and that is the only one they are asking questions about.

Now we tried four successive times --

Senator D'Amato. Did they figure out why?

Senator Kerry. It is very easy to understand why. It is because the President of the United States --

Senator D'Amato. -- and his wife represented the firm. I mean, and we talk about cover up. We talk about looking at the facts. All we are saying is, let's see the facts here.

You want to know why? Because today, we have not had the facts. We have had obfuscation.

(3287)

Senator Kerry. Mr. Chairman?

Senator D'Amato. Well, you asked why.

Senator Kerry. Mr. Chairman, I believe I have the floor.

The Chairman. The gentleman from Massachusetts has the floor.

Senator Kerry. Now let me point out to my friend from New York, that is the obvious rejoinder and we knew it would come to that. But do not come here and suggest therefore that this is somehow bipartisan. Because this has nothing to do with federal policy on savings and loans.

It has to do only with the question of whether or not the President might have done something wrong.

Senator D'Amato. No, I did not say that.

Senator Kerry. Then you come --

Senator D'Amato. Maybe you said that. I did not say that he did anything wrong. Let's understand that, so do not put words in my mouth.

Senator Kerry. Then if he did not do anything wrong, and it has to do with the question of policy, you have to ask the question: Why are those other institutions, why are the Texas institutions not of this significance.

In fact, maybe we ought to be --

Senator D'Amato. No one ever suggested that, and the only reason I am asking is because you are putting it in the nature that would require a response. So, Mr. Chairman, I will try to hold, but I will tell you, I reserve the right to answer my colleague when he puts forth and challenges me as to my motivation. All I want are the facts.

Senator Kerry. Well, I want the facts.

Senator D'Amato. If you do not want the facts to come out, that is your business. And if you want to ask facts on any other banking institution, and that is our responsibility, then we should do it. But do not hold me because I did not ask about something in Texas.

If somebody comes forward and says to me they want to know something that is incredible conflict, I say we should look at it.

Senator Kerry. I believe I have the floor.

Well, you see, I want people to understand.

Senator D'Amato. They understand.

Senator Kerry. I want them to understand the double standard.

Senator D'Amato. I do not see a double standard. Yes, I do see a double standard. I would say to my friend, I see a double standard. I see a cover up here. I see a whitewash here.

Senator Kerry. Mr. Chairman, do I have the floor.

The Chairman. Senator D'Amato, Senator Kerry has

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the floor.

Senator Kerry. This Senator came to this Committee and tried to get this Committee to investigate BCCI, and the response of the Senator from New York and others was this Committee should not be involved in investigations. And we could not even get a subpoena.

This Senator --

Senator D'Amato. I was helpful to you in BCCI.

Senator Kerry. Let me finish.

Senator D'Amato. Okay.

Senator Kerry. This Senator came to the floor and suggested, as did the Senator from Colorado previously, Senator Wirth, and he sat right here and we fought in this Committee again and again to get full disclosure with respect. But this Committee could not proceed forward.

Four times we voted on the floor of the United States Senate in an effort to try to extend the statute. The Senator from New York voted against it. Finally turned around --

Senator D'Amato. That is absolutely incorrect, Senator.

Senator Kerry. He voted against it twice, and he finally --

Senator D'Amato. No, we voted for a clean bill, and you know that. And I supported language, and as a

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matter of fact, if it was not for my effort, we would not extended the statute of limitations.

Let's get the record straight.

Senator Kerry. I have the record right in front of me, Senator. It is right here.

Senator D'Amato. And I will read it too, and I will read it with the quotations in it.

Senator Kerry. Is the Senator saying he never voted against an extension?

Senator D'Amato. I did not say that. I did not say that.

Senator Kerry. Correct. The Senator voted against an extension.

Senator D'Amato. Not four times.

Senator Kerry. I did not say four times. I said four times we tried to get it, and four times we failed because it was stripped in conference.

Senator Gramm. Mr. Chairman, are we doing opening statements or is this a debate?

We have got people here that are important that have jobs to go to.

Senator Kerry. I just want to lay out very clearly, I am willing to have any facts laid out but if we are going to come at this, then I also want Columbia Savings, I want the full measure of Texas, and I want all of them laid out which is what we tried to do since I have been in the United States Senate. Let's go the full distance and let's have a clause, let's have whatever we vote on ultimately reflect the full investigative effort that we tried to get previously.

Senator D'Amato. I would support the Senator. If there is any institution that we feel or any Senator or this Committee feels has not been handled properly by the RTC, I tell you now I would join in an effort to see to it that we get the proper oversight. I have no problem with that.

The Chairman. We have got eight additional members here that may or may not want to make opening comments and we did get in to something of a debate during that one.

Senator Mack, you are next. You have an opening comment you want to make?

Senator Mack. No, I do not.

The Chairman. Thank you.

Senator Braun?

Senator Moseley-Braun. Thank you very much, Mr. Chairman. I hesitate to get embroiled in a brawl, but I could not help but think, listening to the comments of Reverend Jesse Jackson's statement that a text out of context is a pretext. Now only Reverend Jackson could come

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up with something like that.

But I think, in this context, it points exactly to what Senator Kerry has pointed out to the Committee and to the people here assembled.

We are looking at and dealing with a huge mess, and I think we have to take a look at the context in which all of these issues arise to give these witnesses an opportunity, this distinguished panel of witnesses an opportunity to respond to what has happened to the taxpayers' interest, to the country's interest in regard to the larger question of depositor protection and oversight by the RTC.

The failing of the S&Ls cost this country in the neighborhood of $125 to $150 billion. I think that it is fair that we give these witnesses an opportunity to address the large issues pertaining to these questions having to do with current management reforms, what are the goals for the agency, how far have we gone to recapture funds that the taxpayers have had to shell out, and where there has been wrongdoing, and particularly Senator Kerry's lists of the S&Ls, I mean, the failed S&Ls. I think we have an obligation to hear how the agency has responded to those challenges and those questions and what is being done now to clean up the house that was inherited by this Administration, to fix the problem that was inherited by

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this Administration, and what this distinguished panel has to say about the general climate in which this cleanup is taking place.

Secretary Greenspan and I would very much like to hear from him on the issue of interest rates and where we are going. Secretary Bentsen is here to talk about the overview of Treasury's initiatives in this regard, and I congratulate Secretary Bentsen because he was here at the beginning.

I guess I date my service on this Committee with the first hearing that we had at which Secretary Bentsen testified and talked about the initiatives to clean up this agency.

And so, Mr. Chairman, I am going to actually ask that my written statement be admitted for the record.

The Chairman. Without objection.

(COMMITTEE INSERT.)

(13294)

Senator Moseley-Braun. But I do say that it seems to me to be a lost opportunity and unfortunate to engage in a brawl about a house that was inherited in dire condition, that was messed up and for us to get into an argument over whether there are doilies on the dining room table.

We have to put this in context. We, I think, have an obligation to hear from these witnesses regarding the issues that this hearing was convened for.

The Chairman. Well, we are moving toward the witnesses so the more economy we can get in the opening statements, the quicker we will get to them, I say to all the remaining members.

Senator Domenici?

Senator Domenici. Mr. Chairman, I have a statement that I want to give, because I want to talk a little bit today about equal justice and treating everybody fairly.

But first, Senator Kerry, let me say I think when you talk about republicans using this hearing for the purpose that you describe, let me make two points.

If they are, that is not untoward or out of the ordinary around here. We do it all the time.

And secondly, I think every republican that has learned about this from Representative Leach through our

(13295)

leadership, through Senator D'Amato, have all said that this Madison failure demands an investigation.

Now frankly, we would not be doing it this way if this Senate, controlled by your party, would do what it has done on many occasions with reference to other politicians that happen to be republican, and had a hearing on the subject.

You know, it does not go unnoticed that the President's son had a detailed investigation public in the United States House about his activities and his, what is it, Silverado?

Frankly, if you just look at what was in the newspapers about Silverado versus what is in the newspaper about this, you could just take 25 American citizens and say, is there any difference in terms of having a full blown hearing on it, where witnesses are called and evidence is taken?

I trust them. I would think an overwhelming majority would say, why do not you do it.

So my response to you is, why do not we have a committee appointed in the United States Senate to investigate this, and then we will not have to do it, and we will not have to ask questions about it here.

Now, having said that --

Senator Kerry. Would my colleague just yield for

(13296)

a moment? I do not want to get into a thing. But, I mean, this is important dialogue and I do not want to dismiss it.

I do not believe there was a special prosecutor.

Now the distinction is that we have learned that when you have a special prosecutor, Congress tends to screw it up. I do not know what is wrong with waiting the few months to see if the special prosecutor comes forward adequately, and then proceed.

Now let me just finish.

Secondly, the second distinction is, you had, at that time, a major breaking. I mean, we also had a major investigation, and the Senator, who is the Chairman, will tell you all about it, that involved democrats too in the Senate.

And that was because we were at the cusp of the savings and loan crisis. And we were dealing with the most significant institutions; in fact, the number one institution.

Now we are talking about an institution where you have no evidence of federal action, no evidence of federal involvement. It is in fact a series of state involvements with a state official at the time he was a state official involving state personnel.

We do not really have a nexus to this. And we are doing this in the aftermath of a whole host of other

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institutions that were treated differently; namely, Texas and elsewhere, because the statute was allowed to run.

Now we have extended it, and the Senator from New York deserves congratulations. I joined him in that.

I am fully prepared to have this institution fully investigate this if we are not satisfied, but I truly believe that what we are doing now is piling on in a clearly partisan fashion.

Senator Domenici. Thank you very much.

Might I finish my remarks?

The Chairman. Yes, indeed.

Senator Domenici. And if anybody thinks I am addressing their issue, just interrupt me and I will yield to you. I do not really have any reason to hog the floor here.

But let me make two more points and then give you a little analogy that I think is terribly relevant and deserves a little bit of consideration by the Committee.

First of all, in the Bush situation, there was an investigation, he was fined, and there was a full blown hearing in the Congress also.

Secondly, I understand the prosecutor is exclusively a criminal prosecutor. In fact, I have not seen his --

The Chairman. That is not correct.

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Senator Domenici. Not true?

Maybe you could bring us the charge some time.

The Chairman. Yes, I will do that.

Senator Domenici. Fine.

The Chairman. Let me let you finish your comment, and then I will read that into the record now.

Senator Domenici. But let me say, it sounds to me kind of strange that while the members of the Senate and House were calling for an investigation, the majority party here responded that no investigation was in order and stonewalled it.

In fact, look at Representative Leach in the House. What did he have to do, right? He did not have any authority to get any information. He went on his own and did it.

Well, we are asking for that leadership here says no. Then the push comes for a special prosecutor and that takes forever, and now the special prosecutor ought to preclude us from inquiring.

Frankly, I think you can work out some agreements to have oversight up here.

And my last one goes --

The Chairman. Senator Domenici, would you, at that point, before you move on, just so I can --

Senator Domenici. Let me finish this thought

(13294)

because I think it is very much related. And I say it to all these people at this table, many of whom are very good friends of the President; one's a cabinet member.

I think a mistake is being made over and over again by not putting the facts on the table. If there is nothing to hide, this President, his wife, this Administration would have been better off in the beginning to put it on the table.

Look how many of these we have had that started small and everybody says, if they just would have put the facts on the table, nothing, it would have resulted in a little investigation and everybody would have understood it.

Instead, here we are forced with evidence that is out there, that the media are printing, we do not know if it is true or false, and we are forced into this situation to try to get to the facts.

And then, when we are, we are sort of accused because this is not deserving of this kind of hearing. There are so many others that are in Texas, and there is one in New Mexico up there. Maybe there is. Maybe they are not big enough. Who knows?

In any event, I want to yield to you at this point, Mr. Chairman.

The Chairman. Well, let me respond to a couple of the points that you made.

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First of all, just with respect to the charter of the independent special counsel, and I will send you down a copy of this after I read the citation into the record.

This is from the Federal Register February 4, 1994, which lays out the full text of the legal charter, the empowerment charter of Independent Special Counsel Fiske. And it cites here on four different places that he has full authority to proceed to act upon any violation that he finds of either the criminal or the civil law. Specified that he has both charters available to him.

Now that does not set aside any responsibility of existing agencies to proceed with respect to their charter regarding civil actions. But the point is he is very clearly given that specified authority to proceed not just any criminal matter that he may find, but also on any civil matter.

And so, just so that is a matter of record.

But secondly, he has spoken on this issue. And I think Senator Kerry makes a very important point as to who this man is, what is background is, and his certifiable independence.

And if you will recall what he stated the day that he undertook this assignment and his actions since, including those that he has taken as recently as yesterday, I think this is an independent counsel that is clearly at work on all aspects of this issue.

But he was asked to comment on this very issue of the Congress starting down the track of a parallel investigation now that he is charged with doing this work as in independent special counsel. And this is what he said, when asked if he thought this would interfere with his work, and I quote him directly. He said:

"I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a Congressional investigation is going on. The decision whether to have such an investigation obviously is not mine, but I think just looking back at the past, we can all see that it is not an easy relationship."

Now the citation's been made of other Congressional investigations where people were actually found to have committed crimes and then were never punished for them as a result of the fact that the criminal charges were later thrown out in a court of law because of the Congressional investigation that happened earlier on.

So what I have said, I have very carefully weighed the requests that have come from your side of the aisle with respect to the questions that have been raised.

And I have said, and I repeat here again today, when the special counsel completes his work, if there are any questions remaining that require action by this

Committee or oversight on this Committee, we will get into them.

But it also should be said, and I have said this other times, and I do not know, Senator Domenici, whether you were in the room or not at that time. You have cited things that the House has done in the past.

This Committee, by its structure and nature and definition within the Senate, is not an investigative committee. We do not employ any investigators on this Committee. The Senate does have Committees that do have that authority.

Government Affairs Committee does, the Judiciary Committee does, we do not. So that any effort to try to undertake a full blown investigation, not just a hearing or inquiry, but to do this job right means you need investigators. You need to bring witnesses in that may want to come and they may not. You might have to subpoena witnesses and you become involved in a very time-consuming and very careful legal process that would run directly into the work that the special counsel now has underway.

And, you know, I do not think we can justify doing that. I do not care what the case is.

It would be a different matter if there were not an independent special counsel who, in this case, is a republican himself by his background and, you know, he has

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been complimented highly, not the least of which by my friend and colleague, Senator D'Amato, who at the time sort of gave this guy the Good Housekeeping Seal as a person who would conduct a thorough and fair impartial investigation.

So I think we have got to let him do that. I think that is the lay of the land here with respect to that particular case.

Obviously, under the law that was spelled out in FIRREA, you have certain rights which you are exercising today to ask questions about certain cases up to the point at which it may interfere with the on-going work of the special counsel. So you know, we will have to sort of address that as we go.

But that is why we have these witnesses here today, so they can answer questions.

So I want to move on down through, if I can, because we have got other members and I want to get to our witnesses as soon as possible.

So, Senator Domenici, had you finished?

Senator Domenici. Well, Mr. Chairman, I really had not, but I was merely using most of my remarks to respond to Senator Kerry thus far.

I had a detailed statement that I am going to put in the record, but I want to just tell you the essence of it.

(13304)

The Chairman. Without objection, so ordered.

(COMMITTEE INSERT.)

Senator Domenici. This is the essence of it.

Yesterday we got a call from a New Mexican whose business was going to be foreclosed by the RTC, crying. The woman was saying, if I were a big shot in Washington, this would not be happening to me.

Frankly, I have told most of the members of this Committee who were here at various oversight hearings about a doctor in the State of New Mexico who ultimately settled a case because he was so harassed by the RTC.

And frankly, Mr. Chairman and members, it is very, very interesting, because many of the things that this S&L did wrong are reported in the last two months in the Washington Post, the New York Times and the Chicago Tribune, as exactly the kind of things that went wrong in Madison.

I mean, the analogy is incredible. Even to the extent of buying property that perhaps was over-valued. He had nothing to do with it, but they put that on as negligence per se, just because he was a member of the Board.

Frankly, I think the essence of this case, this situation, and I am not the least bit reluctant to say to my friend from Massachusetts, this is about Madison, this hearing. It should be about it. We do not have an opportunity to do it another way.

We ought to be bringing to the attention of the

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American public what we can under proper rules right here today. It will not get very far because we do not have enough information.

Secondly, I think the situation cries out for a total disclosure as to why the appearance is so strong that those who dealt with Madison as insiders, as incorporators, as lenders to a campaign and all the other facts alleged, I think those ought to be brought out, and sooner rather than later.

I do believe, in my closing remarks, so there will be no doubt to friends of this republican, there is no doubt in my mind. And I say this to my friend, Senator Bentsen, who I worked with here forever and he was the chairman of a big committee, if these facts were out on a republican, with the democrats in control, if these facts were out on a republican with the democrats controlling this Congress, there would already be a special investigation going.

So if there is frustration, I believe it is real. I believe we really feel it. We cannot think for a minute that there would not be a special team here in the United States Congress investigating this if the shoe was on the other foot.

Thank you for yielding.

The Chairman. Senator Boxer?

Senator Boxer. Mr. Chairman, first I say to my colleagues, I know I missed some opening arguments, if you will. I was marking up the Clean Water Act and was trying to protect the oceans, rivers, streams, for everyone, and I hope I did part of the job. Took care of Boston, took care of everything.

But, in any event, Mr. Chairman, as one of the people on this Committee, and it was all democrats that really called for this kind of oversight, we are the ones who said we want to oversee the performance of the RTC. And we made an amendment, some of us down on this end, to make sure we would have this kind of oversight.

It is not about one institution; it is about all the institutions. So for this Senator, maybe I am at the wrong hearing, but I thought this was what we are supposed to do to ensure better performance of the RTC.

Now we called for a number of things.

Stronger internal controls against waste, fraud and abuse, a better RTC response to problems highlighted by the auditors, a plan to wrap up the cleanup process, expanded opportunities for small business women and minorities, stronger oversight of contractors, improved financial management and accountability of the RTC, an increase in recoveries from asset sales, greater protection of whistleblowers and aggressive pursuit of those whose fraud and abuse cost the American taxpayers billions and billions of dollars.

And whether those fraudulent actors are in California or Texas or New York or Arkansas, we want to go after them. So all the outrage that we have seen on the Senate floor about one institution, I want to tell you, I share that outrage about many institutions. And I am looking to you to tell me how you are fixing it.

And that is the purpose of this hearing today. We have had a financial tragedy. I can never forget the looks on the faces of these older people in California when they bought those instruments they thought were protected by the FDIC and found out they had lost everything.

That is the image that I bring to this hearing, that is what I care about. And I hope that in the course of the questioning about many of these S&Ls and the actors that are behind them, we can make sure, with confidence, that you are moving in the right direction.

So thank you very much, Mr. Chairman.

The Chairman. Senator Bennett?

Senator Bennett. Thank you, Mr. Chairman.

I do not want to prolong what has been going on but I must make a few quick comments on the main topic of the debate that has proceeded.

I must agree with my colleague from New Mexico

(13309)

that if the shoe were on the other foot, we would be seeing the same kind of thing going on with posturing in other ways.

Neil Bush did have all of his relevant material made public by the RTC. And I do not see a double standard in a call for Madison to have all of its public records made public by the RTC.

And I just pose this rhetorical question.

If the lawyer for the Rose Law Firm who had handled this matter was named Ed Meese, rather than Hillary Clinton, would we be having the same discussion in the same way?

Ed Meese is an acquaintance of mine. I will not call him a close friend. But he went through much of the same kind of thing, and I think if you were to make a chart of the number of Ed Meese's clients in terms of their importance dollar-wise, you would find far many more pages prior to Ed Meese's name than we have seen pages here today.

The Chairman. Senator Bennett, would you just yield to me at that point for a question?

Senator Bennett. Surely.

The Chairman. Because I have thought about that. And I think there is a very substantial difference, I say with all due respect.

Senator Bennett. I would like to hear it.

The Chairman. And the difference is is that in the case you cited, the Neil Bush case, let us just take that case or any comparable case. There was no special counsel established at that time. That case was prosecuted or carried forward by regulatory officials who were within an Administration that had been appointed by that Administration. And that creates, on the face of it at least, if somebody wants to challenge it, an appearance of conflict.

The same thing could be said here in the absence of an independent special counsel. There was no independent special counsel in the Silverado-Neil Bush case. And if there were none here, with respect to Madison, then I think you would have parallel situations.

That is not what we have. We have a profoundly different situation. And if you read the Charter of the independent special counsel, who obviously is aggressively at work. His reports today say that he plans to bring his first case within thirty days. He has indicated that.

He has hired teams of lawyers that are being set up in different places.

I have every confidence, based on what I have seen thus far, that this independent special counsel means to turn all the cards face up before this is done.

That was not done in other situations. And so when I think you try to make that parallel comparison, you have to take that into account. If you were to subtract the independent special counsel from today's situation, then I think you have an argument to make. But I think that makes it profoundly different.

Senator Kerry. Mr. Chairman, if I could just add to that, there is no instance of President Reagan or President Bush appointing a democratic special prosecutor to investigate, as President Clinton has appointed a republican special prosecutor. Totally different.

Senator Bennett. If I might respond. I am not sure that it is acceptable to say that it is totally different. I am not talking about these kinds of details, which I will allow those who have been here before to argue about. I am talking about the rhetoric, and I know the kind of rhetoric around Ed Meese's supposed misdeeds, which clearly would not have arisen if he were not a close friend of the President of the United States.

And Ed Meese did in fact nothing criminal, but he was pilloried on the floor of the Senate and in Committees of the Senate and in hearings when he came to testify in circumstances because of the fact that he was a close friend of the President of the United States. And an argument could be made that he was sloppy in some of his financial activities.

I will not defend that. I am just making the point that I think Harry Truman was talking about when he talked about heat and kitchen.

When the President of the United States has a problem with close associations, and in this case, an associate so close that he has married her, he had better expect this kind of partisan shooting, and I do not think we should say, well, it is inappropriate for it to come up. Because it always comes up, regardless of who controls the Presidency and who controls the Congress, and it is a single standard that all of us in public life have to live by. Usually, to our sorrow, we discover it, but it goes on. And I think we should recognize that is what is going on.

The Chairman. Senator Bennett, would you just --

Senator Gramm. If we are going to debate, we are never going to be able to finish this hearing. I would just like to suggest we go through, let people make opening statements, let's go to our panel, and let us ask them the questions.

If we go back and forth, we are going to tie up a third of the government here. Maybe some will say the country will be better off if they were here than doing their tasks, but we are paying them to do it.

The Chairman. Well, we are moving as quickly as we can.

Senator Bennett, let me just say I think your last point in a sense makes my point. Ed Meese did come under, eventually, the jurisdiction of a special counsel, and that is when his name was cleared.

And I think what you are saying is, in that situation, as I listen to what you say, if the Congress had not come in and sort of bounced him around, and he had the chance to have the facts laid out as they eventually were with special counsel, that that was a proper and fair way for it to be done.

That is precisely the point we are making.

Senator Bennett. I thank the Chair.

Let me go to the issue that Senator Boxer raised about outrage and what we are supposedly doing here at this hearing.

And I share her sense of outrage about people like Mr. Keating who ultimately went to prison and deserved to. The thing I would hope we would pursue, however, is an outrage on the other side of the circumstance, with which I have personal experience.

And that is, S&Ls in my state that were being properly run, appropriately managed, the assets were being well guarded and the depositors were being taken care of, that nonetheless were forced out of business by a very

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aggressive RTC that was determined not only to shut down the bad apples, but were determined to close down the industry. And anybody who had an S&L was immediately suspect. And more than suspect, ultimately destroyed.

And it is the flip side of what Senator Boxer talked about, people who had invested in good faith in a sound business that was soundly managed, who saw the depositors taken care of because of the bailout, and the shareholders lose their life savings because of very aggressive governmental activity.

Now I do not expect that we can salvage that for those people who went through that circumstance. It happened during the infamous twelve years to which my colleague from Massachusetts keeps referring.

I do not carry any brief for those administrators who did that during that period, but I would hope we could address the question of whether or not now in the present Administration there is an awareness of the fact that that mentality that I would compare to that that existed in Paris during the terror towards certain members of the aristocracy whether they had anything wrong to do towards the peasantry or not, existed in the management of the RTC, and whether that has been addressed, and whether there's been some attempt to cool that off.

Finally, Mr. Chairman, I would submit, for the record, a comment that appeared in the Denver Post that I find quite disturbing. It is signed by a John B. Cavanaugh who is listed as the Oversight Manager in the Denver Office of the RTC. I do not, by any means, say that I agree with Mr. Cavanaugh and the accusations that he made, but it is a very inflammatory thing coming from an RTC official and I would hope it would go in the record and that there would be some kind of response.

The Chairman. Without objection, we will place it in the record. I would like to see it.

(COMMITTEE INSERT.)

(2216)

The Chairman. Senator Faircloth?

Senator Faircloth. Thank you, Mr. Chairman.

I will attempt to cut through this quickly.

I feel an apology is almost in order to our guests today, particularly those that did not come here for a Whitewater hearing.

But the truth of it is the Administration had attempted to lock and limit the investigation into Whitewater and the opportunities that we have had to ask and to inquire into it have been extremely limited. We have been eating ice cream with a knitting needle and it is come out very slowly.

(Laughter.)

Senator Faircloth. And I readily agree that Administration would have been better served if they had brought it out early.

We recently had the two reports from Mr. Hove's group, the FDIC, on the role the Rose Law Firm and the Madison Guarantee Savings and Loan case. This is not an outside group. It wasn't even a report by the Inspector General. It was a report by employees whose career path is going to be determined by the investigation. It is a report by the legal division that retained the Rose Law Firm in the first place.

The Rose Law Firm, Madison Guarantee Loan and

FDIC have, and will continue to be staffed with personal friends of individuals who have been implicated in Whitewater-related conduct. Some of the implicated individuals are part of the Administration themselves, as is the case with Webster Hubbell.

The FDIC legal division offered a report on the relationship of the Rose Law Firm and its client, Madison Guarantee Savings & Loan, which attempts to exonerate the Rose Law Firm and Webster Hubbell in particular. It attempts to, and the FDIC from any wrongdoing or conflict of interest.

However, once again, we have career government employees who are investigating their appointed superiors.

What the report does, and I assume you've read it, Mr. Hove, is list eight pages of memory lapses of Webster Hubbell, FDIC employees, legalese quotations from the Arkansas Bar Association, and apologies for not having or not following procedures. It is an eight-page plea of insanity.

(Laughter.)

Senator Faircloth. What the report does not do is change the fact that Hillary Clinton and Webster Hubbell, as partners in the Rose Law Firm, profited on both ends of the Madison deal. They got it going and coming.

It does not change the fact that Hillary and Rose intervened with her husband's political appointee in Arkansas to keep Madison in business. It does not touch or talk to that.

It does not change the fact that Hillary Clinton was in a fifty-fifty partnership with James McDougal whose savings and loan failure caused the FDIC action against Frost & Company.

It does not change the fact that Webster Hubbell was hired by the FDIC to represent what was left of Madison, despite the fact that it was being sued by a member of his family; his father-in-law.

Now if you haven't read it, you ought to. It is really funny. The report says there was a conflict because Webster Hubbell had built a firewall inside the Rose Law Firm between him and his in-laws, an Arkansas firewall. You could strike a match behind it and hear the scratch, see the glow, and feel the heat of his firewall.

(Laughter.)

Senator Faircloth. Of course, we now learn that in the case of Hillary Clinton, Vince Foster, and Dan Lassiter, the FDIC has exonerated Ms. Clinton from a conflict of interest without her even being interviewed. I do not know how you do that, but it worked out, without issuing a report. Totally, she was exonerated. No report, no interview.

We do not know how much money the Rose Law Firm earned or she earned for the firm because it was a confidential settlement with Dan Lassiter.

Hillary Clinton's husband was bankrolled by Lassiter who's brother-in-law had his drug debts paid by Lassiter, and both of them were flown around Arkansas by Lassiter, and was hired by the government to represent the taxpayers against Lassiter.

Now if that isn't a conflict, I do not know how you would design one.

Now the FDIC decides that she had no conflict of interest and exonerates her. This after the person at the Chicago Tribune, I assume they're right, reported had Dan Lassiter's power of attorney, was sent to the White House to move the Whitewater files of Vince Foster, a Ms. Thompson. She was sent in to remove the files from Vince Foster's office. She had Dan Lassiter's power of attorney.

Now if this isn't a cozy arrangement, I would like to hear one.

Mr. Chairman, you cannot tell the people of America who work hard, pay their taxes and play by the rules, that these insiders who use connections, profit on both ends of deal after deal, ultimately at taxpayers' expense, do not have a conflict.

Mr. Hove, the FDIC report means absolutely

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nothing. I hope the search for the truth will go on.

The Chairman. Senator Shelby?

Senator Shelby. Thank you, Mr. Chairman.

I have been in another Committee hearing, but I do have a statement.

Mr. Chairman, thank you. I want to thank you as others have for scheduling this morning's hearing. This Committee has been very busy, but you are to be commended for finding an early date to hear from the RTC Oversight Board. It is very important.

I would also like to welcome the witnesses today before this Committee. I am glad for the opportunity to hear from the Oversight Board on the progress of the Resolution Trust Corporation since the last oversight hearing.

At the last hearing at which this panel was present, you were a new team which had just taken over the responsibility of the RTC. In the intervening year, you've had an opportunity to become familiar with the inner workings of the agency and presumably to make any necessary changes.

I am very interested in your progress.

However, I have a couple of concerns. It is my understanding that fewer thrifts than anticipated are likely to fail before the middle of next year. That is good news.

It is highly likely that Congress appropriated -- maybe, I hope so -- too much money for the remainder of the resolution process. This excess funding could encourage the RTC to be less aggressive in its efforts to obtain the maximum recovery for the taxpayers.

I hope that this will not be the case, and that the RTC will pursue vigorously the best value for the taxpayers.

Further, I understand that resolutions are currently being delayed while the RTC completes regulations concerning the minority and women-owned business program. This delay is unfortunate. I urge you to see that these regulations are completed quickly so that the RTC can proceed with the resolution process and complete its business before the middle of next year.

I am sure there are few others who will be more pleased to see the lights turned off at the RTC than the five of you.

And on another subject, I make the following remarks only because I know it is been discussed already here today, and I wanted to make my position known.

On the issue of the Madison Savings & Loan, there are unanswered questions that bear further scrutiny. We all know this. I believe that is in the best interest of the President and Mrs. Clinton and the right of the American

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people to have a full and fair review of the facts surrounding the failure of Madison Savings & Loan, Whitewater Development Corporation and the Rose Law Firm by the FDIC.

However, Mr. Chairman, I strongly believe this investigation is most properly handled by the independent counsel appointed by the Justice Department. Should Mr. Fiske uncover violations that warrant prosecution or other things, these efforts may be jeopardized, I would think by concurrent Congressional investigation.

We know the history of this. I believe the Chairman has defined appropriately the role that this Committee should play at this time.

The public interest I believe will be best served by the RTC's utmost cooperation with the special counsel as he conducts this investigation.

I again appreciate the Board's appearance before this Committee, and I look forward to your testimony.

The Chairman. Thank you very much, Senator Shelby.

I want to say to my witnesses, we are getting close.

Senator Gramm?

Senator Gramm. Well thank you, Mr. Chairman.

Mr. Chairman, first let me go back to the whole point about why we are here and why, as we all know, this hearing is about Madison Savings & Loan.

First of all, we have a mandate under law to hold an oversight hearing every six months. We have flexibility within that mandate, but the bottom line is this is the first hearing we have held in a year.

And the primary focus of attention in this hearing is not the general oversight of the RTC, though clearly focus on that is worthy of our time and our energy. We all know why we are here and we are all here basically because there are a lot of unanswered questions that ultimately will be answered. The American public will demand that they are answered.

But as long as they're not answered, we are going to end up spending our time in the use of our energies in mornings like this. Many of you are going to end up spending your time in similar pursuit.

And the first point I would like to make, Mr. Chairman, is that the President could do us all a favor by giving the American public the relevant facts in these two cases, in Whitewater and Madison Savings. Give the public the information that clearly the public desperately wants to clear the air on this matter.

And I believe if the President did that that he could free himself of a very heavy burden, and I think he

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could free us.

If I had wanted to be a prosecutor, I would have gone to law school and I would have gone into the criminal justice system. This is not my line of work, it is not something that I feel I have any gift at, and quite frankly, it is not something that I am interested in.

But we can't very well act as if it is not normal mode of operation in the United States Congress. I just was jotting down here, given my poor old memory, examples of where we have had criminal investigations underway and where we have had Congressional hearings.

Silverado, B&L, Penn Square, BCCI, Bank of New England, Empire Savings, and in the case of B&L, we had an independent counsel. So I think everybody knows that whether we want to be drawn into this thing or not, whether it is a good use of our time and energy or not, whether we are specifically charged with it or not, until the President clears the air by giving the American people the facts, we are going to be here.

I hope that he will do that. There is nothing I would rather do than to get on with the Balanced Budget Amendment debate which is on the floor, to get on with the debate about health care.

But I think clearly this is something that is not going to go away. The idea that somehow that we can prevent the Congress from demanding that information be provided when we all know, and we can all try to find things that are different about this case, but there is no knowledgeable person in America that believes for a moment that if Ronald Reagan were President, if an aide to Ronald Reagan had died, if the personal papers of that aide had been gone through by President Ronald Reagan's political operatives, if all of these questions were out there about Ronald Reagan, surely no one can believe that the Congress of the United States would not be setting up special committees, that it would not be the primary focus of what we are doing.

Because the President's party is in power, clearly that is not happening. And I am not eager to see it happen. What I would like to see happen, Mr. Chairman, is for the President to present the American people the facts, answer the questions, clear the air, get this business over with so we can go on about our business, which is the people's business.

The Chairman. Secretary Bentsen, you have been very patient this morning, and we look forward to your report on the status of the RTC, and where we stand at this point, and we would like to hear from you now.

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STATEMENTS OF HONORABLE LLOYD BENTSEN, CHAIRMAN, RTC
THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, SECRETARY,
DEPARTMENT OF THE TREASURY;
HONORABLE ALAN GREENSPAN, MEMBER, RTC THRIFT DEPOSITOR
PROTECTION OVERSIGHT BOARD, CHAIRMAN OF THE BOARD
OF GOVERNORS, FEDERAL RESERVE BOARD;
HONORABLE ROGER ALTMAN, MEMBER, RTC THRIFT DEPOSITOR
PROTECTION OVERSIGHT BOARD, DEPUTY SECRETARY OF THE
TREASURY AND INTERIM CEO, RESOLUTION TRUST CORPORATION;
JONATHAN FIECHTER, MEMBER, RTC THRIFT DEPOSITOR
PROTECTION OVERSIGHT BOARD, ACTING DIRECTOR, OFFICE
OF THRIFT SUPERVISION;
HONORABLE ANDREW C. HOVE, MEMBER
RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD,
ACTING CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION;
DIETRA FORD, EXECUTIVE DIRECTOR
RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Secretary Bentsen. Mr. Chairman, members of the

Committee, I have the Oversight Board Members with me here.

Alan Greenspan, Chairman of the Board of Federal Reserve.

Roger Altman, who is the Interim CEO of the RTC.

I have got Jonathan Fiechter, who is the Acting Director of the Office of Thrift Supervision.

Andrew Hove is the Acting Chairman of the Federal Deposit Insurance Corporation, also accompanying us.

Dietra Ford, who is the Executive Director of the Oversight Board.

And I have a longer version for the record, but I would like to summarize it, particularly with the lateness of the hour, if I might.

The Chairman. We will make your full report a part of the record, and we would like your summary.

Secretary Bentsen. Before I begin, in listening to the partisan exchange, let me thank the members of this Committee for their bipartisan support last year, in the last session, to obtain the funding to finish the RTC job. I am quite appreciative of that.

Let me tell you something you do not hear very often. We are not here to ask for more money.

(Laughter.)

(Applause.)

Secretary Bentsen. The funding provided through the RTC Completion Act ought to be sufficient. In fact, they tell me this is the first time that the Oversight Board has been before you that it wasn't asking for additional money and funding. And I am just very pleased to be able to inherit that honor.

I am also happy to report that few S&Ls are failing, and 99 percent of private sector thrifts are well or adequately capitalized.

Let me review some of the numbers for you.

Since the RTC was created in 1989, it is taken over 743 failed institutions and it is closed or sold 680 of them. In the process, it protected nearly 23 million deposit accounts with an average balance of $9,000. RTC made good on the government's guarantee of deposit insurance to millions of Americans nationwide, and I might add it did it with minimum disruptions. A lot of the customers did not even know that the RTC had taken over their S&L.

The RTC also undertook the greatest liquidation in history, so far disposing of $393 billion in assets for about 90 percent of their book value.

Frankly, I couldn't believe that one. I made -them go back and check it again for me.

The RTC's sold, since its inception, nearly 80,000 units as affordable housing, so at least tens of thousands of lower income families have benefitted as this problem is being solved.

Crime is at the top of our agenda these days. We talk about violent crimes. Well, this scandal had criminals, had white collar criminals. More than 1500 persons were charged with major crimes involving S&Ls.

Nearly 1250 were convicted, and of those sentenced, more than 75 percent went to prison. RTC has pursued civil recoveries from wrongdoers with all involved agencies collecting nearly $2 billion.

Mr. Chairman, when this Administration took office, the total cost of resolving the S&L problem was estimated between $100 and $150 billion. When I testified, just last month, we thought as much as $45 billion in additional funding would be needed. That was on top of the nearly $87 billion already appropriated.

A lot of people agreed with us. The Congressional Budget Office estimated $50 billion. The General Accounting Office had us around that level. And so did the House and the Senate Budget Committees.

As RTC funding legislation moved through the Congress last year, constantly improving economic conditions resulted in record earnings for the S&L and the banking industries. By mid-November, after lengthy deliberations in both houses, the funding bill provided $18.3 billion. And that provided the total amount that was provided by Congress for the cleanup to $105 billion, a figure on the low end of the estimate when this Administration took office.

I know the results could have been different, easily. Depositors could have lost all their savings. The loss to the government could have been far greater. Resolution of the problem could have taken much longer. But to the credit of a great many people, and they are seated in this Committee, in addition, the problem is near resolution.

I would like to give some credit to the management of the RTC. And I think we sure better credit the economy. Deficit reduction has helped interest rates to fall.

We have taken steps to increase the availability of credit. Tackling unnecessary regulations and report requirements that discourage lenders from making loans to small business. And we will continue to propose changes that will result in greater credit availability and efficiencies in the banking industry.

This is why we want to settle a number of issues, including passage of the Community Development Financial Institutions legislation, which includes a balanced reduction and regulatory reform.

I will before this Committee next week with specifics on the Administration's proposal to reform and simplify the regulatory structure for depository institutions.

Our proposal will not only eliminate unnecessary regulatory expenses, which could result in the availability of greater credit, but as importantly, it can help avoid new crises by putting a stop to inconsistent and confused regulation.

We will talk more about that next week.

But the point I want to make on deficit reduction is that the market responded. The economy responded. Housing starts and home sales are up, and that is sure good news when you're the RTC and you're trying to close a property.

I can't help think back what a dramatic difference interest rates make. I used to chair a savings and loan. I am sure glad I sold it when I came to the Senate.

(Laughter.)

Secretary Bentsen. I will tell you. Not smart, just lucky. But I will tell you, when you have got your mortgages at one rate, and all of a sudden long-term interest rates go substantially above that, you have got yourself a real problem in an S&L.

And when you have got the government saying we will guarantee the first hundred thousand, and you have got a small, new S&L, and then they all three bundled up, hundreds of billions and send it to a little S&L, you saw that thing happen in Vernon, Texas, did exactly that.

And then you see the others who are honestly trying to compete and what a hole it puts on them.

Fortunately, we are seeing things go the other way with this substantial reduction in interest rates.

And I want to say to you, Senator Bennett, I have seen some of what you're talking about too. But sometimes they were oversights, and that balances in part the concerns about what Senator Boxer has of those that have been ill-used and guilty of malfeasance.

But lower interest rates and increased credit activity have brought about increased earnings for all types of financial institutions.

Many S&Ls that may have been at risk are now making profits. You and I know we can't predict what is going to happen between now and '95 when the RTC goes out of business. Nobody foresaw the floods and the earthquakes and they had their economic consequences.

We are not done yet. Through '95, RTC must continue to protect depositors, must dispose of some very-hard-to-sell assets, and it must ensure its operations are run effectively. It must work toward an orderly transition of its responsibilities to the FDIC and it must never lose sight of its mandates to provide affordable housing and maximum minority participation, including implementation provisions of the RTC Completion Act.

I have urged the RTC to work aggressively on the issue of minority participation. It is imperative that minority and women-owned businesses have an ample opportunity to win contracts, to purchase assets, and to acquire failed thrifts. In fact, the RTC is taking special care to meet the requirements of the Completion Act to provide preferences to minority institutions by applying the lease cost test.

Let me be more specific about some of those things I mentioned.

The RTC has begun resolving 63 insolvent institutions now operating in conservatorship, which have about 2.3 million deposit accounts. Some additional institutions may be transferred this year. if so, the RTC will make good on the government's guarantee to those insured depositors and any others who might yet fall under its jurisdiction.

Insofar as the remaining inventory of nearly $64 billion in assets, these, as you said earlier, Mr. Chairman, are the most hard to sell properties that are left. Real property and non-performing mortgages.

While the improved economy helps sales, the potential loss to the taxpayers could be reduced if these assets are managed and sold efficiently. The RTC is working on improving its marketing and sales strategies. It is seeking creative yet sound techniques to maximize returns.

To fulfill its remaining mission, the RTC will benefit from good managers.

Jack Ryan of OTS was appointed Deputy CEO.

Helen Cook of the OTS has been appointed General Counsel.

And Tom Horton has been promoted to Acting Senior Vice President for Asset Management and Sales.

And I can tell you today that the Administration expects to submit its nomination for a permanent chief executive shortly.

I thank Roger Altman for the service that he has done as the interim CEO. His term expires the end of March, and we hope by then to have a candidate.

In line with the RTC Completion Act, Jack Ryan will serve as the interim CEO between the time Mr. Altman's term expires and the permanent CEO is confirmed.

The Oversight Board will also make some appointments to the Audit Committee which will be in operation soon.

I have asked Frank Reins, Vice Chairman of Fannie Mae, to chair that one.

And to serve as members, we asked Jonathan Victor of OTS, Robert Larson, Vice Chairman of the Taubman Company and a former member of the Oversight Board. Mr. Larson has also been renominated to serve on the Oversight Board and I hope you will be able to approve his nomination soon.

The RTC will close down on December 31st, 1995, one year earlier than originally thought, and planning for that is well underway.

I expect the new management to work with the people at the FDIC in a cooperative way to carry out the transition of the RTC to the FDIC. This past year, the Oversight Board has also strengthened our staff reviews.

I was being reminded of my testimony of last year, the recommendations and the improvements that we sought to bring about. We have done a number of them; we have not completed them all. We are obviously still working at it and we are scrutinizing some.

For instance, our staff has been monitoring the RTC's efforts to improve its contracting systems and its oversight. The review is being conducted to make sure policies are applied uniformly to all contractors, that contract oversight procedures provide effective review of performance, another example.

Staff has focused on the RTC's financial operating plan, its operating budget and all it is barring activity and our advisory boards are taking hard looks at the policies governing asset sales.

Late last year, Ira Hall of IBM USA was named Chairperson of the National Advisory Board, bringing considerable financial expertise and private sector expertise to that process.

These Boards meet regularly at sites nationwide. They discuss progress and they hear testimony from witnesses, and how these regulations and procedures affect different parts of the country.

The RTC listens to their advice, and they have been instrumental in advancing affordable housing opportunities.

Our advisory board structure will change this year. The Completion Act created a new Affordable Housing Authority Board to replace the National Housing Advisory Board.

That new Board will be made up of nine members, including the Secretary of HUD. They will be providing advice on affordable housing programs and how to merge RTC programs with the FDIC programs after the shutdown, and we are looking forward to working with them.

Now, last year at this hearing, I said I announced those ten goals insofar as improving or reforming RTC management. Things like putting in place a system to ensure prompt follow-up on findings of the Inspector General and the General Accounting Office, strengthening the contracting system and oversight of private sector contractors. Appointing a chief financial officer.

The RTC Completion Act mandated and expanded on those reforms and RTC is moving to meet the standards that Congress determined and set.

I am pleased with the results.

In a minute, I would like Roger Altman to discuss them with you, one by one.

I hope you especially note what we have done on opportunities for minority and women-owned businesses and in strengthening our internal accounting and administrative control systems.

I personally believe that these programs are an important part of RTC duties and that this is an area it must continue to focus on to ensure legislative mandates are carried out.

Mr. Chairman, let me end on this. I believe that the RTC has made significant progress in the past year in achieving its mandates and in addressing the concerns that you folks in the Congress raised, concerns by the GAO and by the Oversight Board.

You bet there have been a lot of problems but the organization has been relatively free from partisan conflict. Republicans and democrats alike have been committed to fulfilling the government's obligations to protect depositors at the least cost to the taxpayers. In 1994 we will keep working at that one.

And looking to 1995, well, I believe the RTC will be more than happy to be out of business. I sure will be happy.

Thank you.

Now let me turn it over to Mr. Altman.

(Written statement of Secretary Bentsen follows:)

The Chairman. Mr. Altman, we would like to hear from you now.

STATEMENT OF HONORABLE ROGER ALTMAN, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, DEPUTY SECRETARY OF THE TREASURY AND INTERIM CEO RESOLUTION TRUST CORPORATION

Mr. Altman. Thank you, Mr. Chairman.

I too have a longer statement which, with your permission, could be entered into the record.

The Chairman. Without objection.

Mr. Altman. And I will summarize it here.

This is probably the final time I will appear before the Congress in RTC capacity. Under the terms of the Vacancy Act, my appointment would expire on March 30th. There are limited circumstances under which that could be extended, but I do not believe they will apply.

As Secretary Bentsen said, it is our intention to nominate a permanent chief executive as soon as possible. Last year, we chose, I think a fine candidate, Fanley Tate. He withdrew, which was not at our urging. And I believe he would have done a good job.

I also want to join with Secretary Bentsen in thanking the entire Committee for its bipartisan efforts to secure funding through the Completion Act passed late last year.

I would also like to note that the RTC has taken special efforts to be responsive relative to the California earthquake. Foreclosures in those effective areas have been delayed. Homeowners are being helped to avoid delinquencies on mortgages held by the RTC.

And we notified FEMA of 54 multi-family units and 47 single family residences that can be made available for temporary housing.

Now onto the status report.

Mr. Chairman, the S&L collapse required the biggest financial rescue probably in world history. Including money spent by the FSLIC, beginning in 1988, it is expected to cost the American taxpayers the staggering some of about $150 billion.

To put that into perspective, at today's budget levels, that is equivalent to about 45 years of Headstart, about nine years of aid to families with dependent children. At a time when we all struggle to finance federal support of vital activities, from national security to education, these are sobering comparisons.

I am sure all of us would agree, on a bipartisan basis, to make every effort to ensure that such a fiasco is never repeated.

When we inherited responsibility for this agency, it was not in sound condition. It was one of the largest contracting organizations of all time. But it had poor contracting procedures. It was selling assets in massive blocks," denying local investors a shot at local properties which they knew best.

And despite being larger than almost any American financial institution in the private sector, any bank or any securities firm, it had no full time chief financial officer, no permanent general counsel, and it had no business plan.

So we determined to concentrate on repairing the organization. And when Secretary Bentsen first testified before this Committee, almost exactly a year ago, he outlined a series of management reforms to which we committed ourselves.

And I would like to very quickly just review some of those.

A full-fledged review of all 21 of them is appended to my statement.

Contracting. We found that the agency's contract award procedures had often been violated in the past, and our first action there was to mandate compliance. Some of the compliance problems reflected weak organizing principles. Contracts were often let by the same employees responsible for overseeing them.

Obviously, in the event of a compliance problem, the employee then had little incentive to draw attention to it. So the Office of Contracts has been reorganized into two separate units; one for contract solicitation and award, and another for contract administration to avoid conflict.

And the scope of contracting oversight has been substantially expanded. Among other things, the staff there has been more than doubled, and reviews of nearly 500 outstanding contracts were undertaken last year.

Next, audits. A new reporting system has been implemented to ensure that management responds to the concerns raised by auditors, and that system now tracks and updates the status of all inspector general, GAO, and internal RTC findings and recommendations. And I am pleased to say that the RTC today is current in following up on almost all GAO and OIG findings.

Business plan. We completed a comprehensive business plan. We provided copies of that to this Committee. It is a highly detailed, and I think, objectively speaking, a good piece of work. It is intended to be a living document, and we are going to update it regularly as conditions warrant.

Chief financial officer. Donna Cunningham, our chief financial officer, has been on board for about eight months. She's taken that helm very ably, as reflected in a series of improvements in the internal controls in the organization.

The professional liability section. This has been a particularly troubled area of RTC operations. There have been complaints from both sides of the spectrum, as the comments already here today illustrate.

Complaints that the RTC was unfairly pursuing former S&L directors who had no real roles in those organizations, and on the other side, complaints that the RTC was not sufficiently zealous in pursuing the real crooks.

As GAO recognized in its mid-1993 report, the primary problems have involved inadequate staffing and an overall lack of experienced attorneys. And the temporary nature of the RTC has made it particularly difficult from a recruiting point of view.

But we have worked hard to increase the size and the training of the staff in this area. We currently have the highest total of attorneys on board in the agency's history. Moreover, senior RTC and FDIC officials are planning to merge the RTC unit here, the PLS unit with its counterpart in the FDIC, recognizing that the FDIC is a source of experienced attorneys in this area.

I also want to say that effective prosecution of PLS claims continues to be one of the RTC's highest priorities.

Secretary Bentsen referred to our having formed an Audit Committee and appointed its members. We have also established a Joint Coordinating Committee with the FDIC for purposes of planning the transition of portions of the RTC back into the FDIC by the end of 1995.

I would like to make a special set of comments about expanded opportunities for minorities and women.

That has been one of our highest priorities, as Secretary Bentsen said.

First of all, we elevated the minority and women's program to the divisional level, put the head of it on the Executive Committee reporting directly to the CEO.

We took action to expand the number of minority and women-owned businesses receiving RTC contract solicitations. And there are now more than 1100 of them in our database..

Let me say a couple of words about the record.

On a cumulative basis since inception of the $3.7 billion awarded in non-legal fees, $800 million have been awarded to minority and women-owned businesses, 21 percent.

Take a look at last year. We paid non-legal fees of $500 million, and minority and women-owned businesses received 31 percent of those.

We also continued efforts to encourage the use of minority and women-owned law firms on the legal side, as far as legal fees are concerned.

Last year, such firms received 54 million or 13 percent of all legal fees from us, a big increase of the 1992 level.

And within the category of minority and women-owned law firms, minority-owned law firms received 36 million, far above the 23 million of a year before.

I think the entire RTC is quite proud of the sharply increased levels of minority and women's participation in all of the fee generating activities of the agency. And details on that are also appended to my statement.

Turning briefly to operations and financial issues, Secretary Bentsen cited a series of statistics relative to the amounts of institutions which have been resolved since inception, to me the most important statistic is $9,000. $9,000 that is the average balance in institutions which have been resolved. And for those who think this has been a bailout of the rich and famous, I think that is a pretty telling number.

We have 63 institutions under conservatorship today, 18 billion of deposit. Now that the Completion Act is law, we are in the process of marketing these remaining conservatorships. We think these 63 will be resolved, Mr. Chairman, by the summer of this year. And that it should cost $9 to $11 billion to do that.

On the asset sales side, we exceeded the targets we initially set last year. Book value reductions, $63 billion; cash proceeds, 76 percent of that. That is a recovery rate below previous years because now we are down to poorer quality assets, hard-to-sell assets.

For this year, 1994, we expected to reduce the book value of our inventory by $43 billion, cash proceeds, $29 billion, projected recovery rate, 66 percent.

Now on this asset sales side, one of the things we did was to put in place a small investor program. Because if I heard anything in this past year in this capacity, it was that local investors did not have a shot at local properties which they knew best. So we took steps to ensure that assets would be available for sale individually to small investors with moderate levels of capital.

Under this program, individual offerings of real estate properties have been emphasized. Underscore individual.

Auctions and sealed bid sales have become more frequent and geographically focused.

Smaller loan pools are being offered to allow buyers to purchase smaller, more geographically segmented groups of loans.

And I am pleased to say that at the most recent non-performing loan auction in August last year, a third of the winners were new buyers who had not participated before, and the new bidders, overall bidders were, for the most part, smaller companies with a much higher preference for smaller loan pools and were most interested in buying geographically focused loan packages located in their own areas.

Affordable housing. Secretary Bentsen noted this. From, since inception, we have sold over 77,000 units for a total of $1.2 billion. The average annual income of households purchasing in that program has been about $24,000, which, by the way, is 61 percent of the national median family income.

Finally, Mr. Chairman, the issue of whistleblowing.

As was noted earlier, last September, this Committee held oversight hearings where a variety of allegations were made, including retaliation against whistleblowers.

Let me emphasize, in the strongest terms, we support protections for whistleblowers and have taken several actions to address those allegations. I issued a memorandum on October 4th to all RTC employees strongly reiterating our policy of prohibiting retaliation against whistleblowers.

We established an employee ombudsman program to augment the efforts of the inspector general in gathering all types of employee allegations. That ombudsman reports directly to the CEO on a weekly basis.

And I think that program's working pretty well because as of February 15th, we have received 116 inquiries, 96 of which have been closed and 20 of which are still pending.

We also had conversations, in person and by telephone, with six of the individuals who testified here before this Committee. And during these interviews, we solicited comments, feedback, and suggestions from them on how best to remedy the problems which they raised.

And a number of those interviews were insightful and have been taken into account in our efforts to remedy some of the management problems at the RTC.

And I just want to underscore how seriously we have taken these allegations, and that hundreds of hours have been spent working to understand and resolve them.

In closing, the Completion Act requires the RTC to terminate on December 31st, 1995. We will make that. There is no question we will make that, and I think it will be a happy day for all concerned, especially the American taxpayer.

Thank you.

(Written statement of Mr. Altman follows:)

The Chairman. Thank you very much.

We are going to now proceed with the questions, and we will go with normal five-minute time periods.

Chairman Greenspan, let me start with you. The Federal Reserve of course has raised interest rates earlier this month, and you have just indicated publicly again that further increases are likely.

And we know in the past that rising interest rates have the effect of causing significant problems for thrifts.

Now obviously the amount is highly relevant.

But my question to you would be what effect are these higher interest rates likely to have on the RTC, and for that matter, on the future health of the thrift industry, which is still trying to work its way back?

Chairman Greenspan. Mr. Chairman, I think you raise a very important question because one of the lessons of this whole experience has been that we have, we put into place in the early post-war years, an institution which was a specialized institution, one which could not function in a period of significant inflationary imbalances, an institution which had long-term assets and short-term liabilities.

And as the Secretary indicated, when interest rates generally go up, that institution is pressed, as indeed we saw in an extraordinary sense in the period 1979-1980.

One of the things that is very important that we not allow to happen again is that extraordinary type of inflationary imbalance which was do destructive to those types of institutions. To be sure, savings and loans, as a consequence of that, have restructured their balance sheets to a significant extent, and then maturity mismatch is not the size that it was previously.

Nonetheless, should interest rates rise significantly, then I think it does put those institutions in a very difficult position. It is been the concern of the Federal Reserve that we endeavor to fend off any such types of inflationary instabilities, and the actions that we took on February 4th, and the general discussion which I outlined to the House Banking Committee subcommittee in trying to comprehend the type of problems that may be out there were put forward precisely to prevent the types of difficulties which so debilitated the savings and loans.

To date, the affects on these institutions of course have been minimal and we do not expect to see any particular problems emerge on that.

But I would like to ask my colleague, Jon Fiechter, what he sees. He is looking at these institutions in a much more detailed way than I.

MR. FIECHTER. I would echo what Chairman Greenspan said.

Well, first, clearly a major risk in the thrift industry, given the nature of the business, is interest rates, but a real difference between the thrift today versus the thrift of the late seventies that ran into so much difficulty when there was the rate spike in the early eighties is that restructuring, both of assets and liabilities. There are a lot of thrifts now that will not hold fixed rate mortgages any longer because they went through the early eighties.

Also as a consequent of removal of Rate Q institutions are much better able to manage their liabilities.

As you know, Mr. Chairman, as a consequence of FDICA, OTS has spent a lot of time on interest rate risk. We have a fairly extensive model.

In anticipation of this, I asked the staff, based on the information that thrifts now provide, what would be the effect of a 200 basis point increase in interest rates if it were to happen as an across the board increase. And I do not think we are talking about that type of change.

Only ten institutions would fail their current capital requirements. None of them would go below two percent capital, however. And while it is a very uncertain world we live in, the analysis that we have done has suggested that at least in the numbers that we are talking about today, the thrift industry is much better positioned to handle rate increases going forward.

The Chairman. I think that is an important response because I think it shows, as well, that in re-engineering through FIRREA and then FDICA, the arrangements that the general strategy is working now. If we get overtaken by events that were to drive interest rates above 200 basis points, then we are into a different zone.

But let us hope we are not going to deal with that.

Chairman Greenspan, let me ask you one other question.

This issue has obviously gotten a lot of attention here this morning.

Are you satisfied with the way that the Madison Guarantee issue has been handled by the RTC?

Chairman Greenspan. The Oversight Board has, as far as I am concerned, had no relationship with the Madison issue, because that is a special case which is handled by the RTC directly. And I must say I have not followed it in any manner which would enable me to address the question in a useful manner for you.

The Chairman. Senator D'Amato?

Senator D'Amato. Thank you, Mr. Chairman.

Mr. Hove, on August 10, 1989, there was a letter written to Mr. John O'Donnell by Ken K. Schenck, a credit specialist. I do not know whether you have seen this letter in your reviews of this whole matter.

Just let me read you the last paragraph.

In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guarantee used in their day to day operations. We are making this information available in detail to Mr. Hubbell.

Now listen to this sentence.

To believe that none of this information will make it back to his family is naive. I do not know whether or not any information upcoming will be damaging. However, I would like someone with a lighter scope of authority to review the situation and possibly eliminate this conflict.

Here is a credit specialist who is telling you what the real world is about. He was there.

Now, let me go on.

In the report released by the FDIC, the eight pages of what I think is the most incredible whitewash of Whitewater gate that I have seen. This is incredible. Incredible. And I have spoken to you just briefly before and told you what I am going to ask you.

Page six, at the bottom. In addition, we have found no evidence that the firm had a close relationship with the S&L which might call into question its independence.

I mean, I have to tell you, given the information that your people were reporting back to Mr. O'Donnell FDIC S&L project area coordinator, August 10, 1989, given this incredible, I would say the FDIC makes an assertion that the Rose Law Firm did not maintain a close relationship with Madison Guarantee. That is incredulous in light of the fact that they had a monthly retainer with them for 15 months for several years earlier.

I mean how do you come to this conclusion?

Let me ask you one other thing.

Is it true that no documents were reviewed as part of the FDIC's internal review, which was conducted by your law department? Is that true? Do you know?

Mr. Hove. Let me respond to your questions in the order that you gave them.

You first talked about Mr. Hubbell and his relationship with the suit with the Frost accounting firm.

Senator D'Amato. Have you seen this memo?

Mr. Hove. I have not seen that memo.

Senator D'Amato. Will the staff give a copy of this memo to Mr. Hove, please.

Take a look at that last paragraph and let me know whether or not your people, in conducting this review, have seen this, goes back to 1989, and the person who sends it says it would be naive to think that Mr. Hubbell would not pass this information onto his family.

Mr. Hove. But let me respond by saying that even if he had, the issue between Mr. Ward, who is Mr. Hubbell's father-in-law, and the Madison Guarantee had been already decided and Mr. Ward had a judgment at that time against Madison. That case was on appeal. And therefore any information that Mr. Hubbell could obtain, even if he would obtain it and give it to his father-in-law, would not be admissible, would not be in the appeal process, even if he had the information to give him.

Senator D'Amato. Mr. Hove, let me ask you, did you read page six, the bottom of your report, because we do not have much time, and I am going, it says we find no evidence that the firm had a close relationship with the S&L?

Do you really believe that to be the case? Do you really believe that a monthly retainer that Hillary Rodham Clinton had did not establish a close relationship? Are you really suggesting that there was none? Is that credible in light of what you know?

Mr. Hove. Her relationship with Madison was on an issue that was in a state agency and not with the Federal government. It was not with the FDIC, and our case was not against Madison. Our case was against the Frost law firm, the Frost accounting firm.

Senator D'Amato. In addition, we find no evidence that the firm had a close relationship with the S&L, which might call into question its independence.

I mean, are you serious? I mean that is a conclusion that was made. Now let me tell you, it was made by your legal department.

Let's go on to something else.

As part of last year's RTC Act, you have an inspector general that was created in the FDIC. Was the FDIC inspector general involved in this review?

Mr. Hove. No, sir. The review was started at your request, if you will recall. I had indicated to you, in my confirmation hearing, that we were undergoing a review by our legal division as to what was the policy, the conflict policy that may be in effect between the Rose law firm and the FDIC in the lawsuit that Rose was doing for the FDIC against the Frost accounting firm.

Senator D'Amato. Let me ask you this. Do you plan to ask the Inspector General's office to analyze the procedures used by the FDIC legal staff in conducting this internal review and in essence to review this matter?

Mr. Hove. I would do that if the Committee requested that.

Senator D'Amato. Well, I am requesting it, and I would suggest that you would not need the Committee to ask you to do this. I suggest to you that it is your job to do it. I would suggest to you that when you have such obvious areas of conflict in this report, and you are saying that there was no close relationship, when you are suggesting that Mr. Hubbell was not in a position to give any information to his father-in-law, that it is incredulous.

And if you do not have an inspector general look into something like this, then what do you have him for?

And what do you have? You have staff people who make this kind of determination?

Now, I have to tell you, you will be doing yourself and the FDIC I think a great, great damage if you just think that you are going to let it rest on this eight pages of sophomoric legalistic mumbo-jumbo that does not hold water.

And I just looked at this report. I have had some occasions to see it in the newspaper. This is the first time I had an opportunity to review it personally this morning, and it is shockingly inept.

Now question, do you intend, not by way of this Committee instructing you, to put this matter and do not you think it is appropriate that it be submitted to the inspector general?

Yes or no?

Mr. Hove. Senator, we have been reviewing this to review our procedures, to review our procedures with conflicts, with conflicts not only with the Rose law firm but every law firm that we deal with. And our procedure is to deal not only with the actual conflicts but also to deal with the appearance of conflicts.

And in this case, had we done that, had we dealt with the appearance of conflicts, it is likely t the appearance would have been different. The conclusion may have been different.

But Senator, this has been several years ago. At that time, we had many cases coming into us as a result of the savings and loan failures, and the conflict, under the rules that we were dealing with at that time, did not present any conflict of interest from the Rose law firm suing the Frost accounting firm.

Senator D'Amato. What we are doing today, today you are saying there may be a conflict back then because they did not have clear rules spelled out.

Now let me tell you, whether it smells today and it smelled then, I do not want to get into this legalese that it may be. I want to know if you are going to ask the inspector general to review this matter?

That is the question.

Mr. Hove. I will do that if the Committee requests it.

Senator D'Amato. Well, Mr. Chairman, I would, at this point in time, move that we ask that this matter be reviewed by the inspector general.

This is not going to interfere with any federal prosecution that is taking place, but it is a question of ascertaining whether or not we are getting the facts. It is a question of whether or not legal counsel has analyzed all the documents.

I do not know, I read in one news account that says that no documents were received as part of the FDIC's internal review. I do not know whether that is true or not, but that is certainly something I intend to pursue.

The Chairman. Let me just respond to your question, because the time is up, and I want to stay within these time periods, or we will not be able to move any at all here in an efficient way.

Let me take your request under review. I am not sure but what a request from a single Senator is sufficient in asking for an inspector general review. I do not know without looking at our past practices and precedents.

Senator D'Amato. And Mr. Chairman, let me thank you for the matter in which you have handled this.

But I have to tell you something.

I wonder why, when I asked a question to just know would you undertake this and, Mr. Hove, before you answered the fellow behind you with the glasses who has got all his hair that I wish I had, came up and told you what to say.

Now can I ask what is your title and what is your responsibility?

Mr. Jones. I am Douglas Jones and I am Acting General Counsel.

Senator D'Amato. You are the Acting General Counsel. Well you would know whether or not you are going to ask, it seems to me, for this to be reviewed.

It is a matter of you seeing that the propriety of this report, the integrity, the correctness of it can be substantiated.

It would seem to me that you would want to do that.

It would seem to me that, without counsel coming to you and saying, well, you know, you can Riegle-out by saying that the Committee has to ask.

I appreciate the Chairman's response, I really do.

I just make that observation, Mr. Hove, that I find your response totally unacceptable.

Senator Boxer. Mr. Chairman?

The Chairman. I want to move ahead to Senator Kerry who is next.

If you want to make a response, please do.

Mr. Hove. Yes, I would like to.

First of all, all of the documents, everything that we have discovered, is available to the Special Counsel, and we will make that available to the Special Counsel.

I will commit to you that I will ask the Inspector General to undertake an investigation.

Senator D'Amato. Thank you. Thank you, very much.

I think you have done the Administration a service, yourself, the FDIC, and I applaud you for that.

Thank you, Mr. Chairman.

The Chairman. Senator Kerry.

Senator Kerry. Mr. Hove, you were originally appointed to your position by President Bush, were you not?

Mr. Hove. That is correct.

Senator Kerry. So you are a holdover from the Bush Administration.

There is no special affiliation you have with President Clinton?

Is that correct?

Mr. Hove. Correct.

Senator Kerry. I think it is a fair issue always as to what the level of review is as to any institution, if it takes place, and I have certainly shared a public expression of concern about what the Inspector Generals have done or not done.

But I would like to see if it is going to be done as to Madison, I really want to see it done as to Columbia and as to some of the others. I just think we ought to cover the board here.

Secondly, I would want to point out the distinction here which we keep missing. One of my colleagues earlier said that if this was President Reagan who did this and it was Silverado and so forth, we would be screaming.

Those were sitting Presidents who made sitting decisions regarding a policy at that moment in time that cost the taxpayers a lot of money.

There is no sitting Presidential decision here. There is no issue of Presidential policy here. There is no issue of taxpayers being cost money by an action taken by the President of the United States at this time.

This happened in 1982 and 1986, before they became President.

Now an individual died, and there is an investigation into the death of that individual, and what may or may not have happened is a fair question with respect to the death. And that is being investigated by the first Special Prosecutor of an opposing party that I can think of in my public memory in public office that has been appointed.

That is the clear distinction here, and it is a very real distinction.

No taxpayer money.

No public issue of policy.

No decision of a sitting President of the United States with respect to what this Committee has oversight on and is here for today.

The question is legitimate:

What took place?

Were there relationships previously?

These are important as to all these banks. It is fair for the Special Prosecutor to proceed on that, and it is even more important that this Committee guarantee down the road we investigate everything.

I am not sitting here saying something may not have taken place. In point of fact, there may be some indication that some folks outside of the White House may have some questions to answer, but there is no evidence whatsoever with respect to policy or taxpayer money of any decision made by the President of the United States that warrants this kind of inquiry.

Now let me ask you, if I may, Mr. Altman and Mr. Secretary, perhaps you can share with me, because one of our concerns is not just Madison but a whole lot of other institutions.

I think 42 percent of the total losses fall in Texas alone. There is a serious question about professional liability with respect to those institutions.

I would like to know:

To date, what is the total amount of money recovered to date from directors or officers of these institutions nationally?

Mr. Altman. $640 million, Senator.

Senator Kerry. $640 million?

Mr. Altman. I meant from institutions. From institutions.

Senator Kerry. And that is recovered through liability cases?

Mr. Altman. Those are criminally related recoveries.

Senator Kerry. What about civil? Is there any at this point?

Mr. Altman. In addition to that figure I gave you, about $745 million from civil-related recoveries.

Senator Kerry. So we have in fact recovered to date $1.3 billion?

Is that correct?

Mr. Altman. (Nods in the affirmative.)

Senator Kerry. It is not insignificant.

Can you break down where that has taken place? It is my understanding that 42 percent of the total cost of bailout was Texas.

Is there a corresponding recovery rate, or any kind of rate you could give us as to where the most money came from?

Mr. Altman. I do not have information with me, Senator, on state-by-state breakouts.

Senator Kerry. Would it be possible just to get that at some point in time?

Mr. Altman. We would be happy to do our best to do so.

Senator Kerry. I think it would be good to have a sense of that.

It is my understanding that you were going to take a look at this question of sort of why the recovery rate may or may not have been low. Have you been able to draw any conclusions as to that?

One of the things I heard is that a lot of the attorneys who came on believing that they were going to be able to engage in recovery grew so frustrated at not being able to do so in the early years that they left.

I do not know if that is legitimate, or if you have found other reasons, but could you share with the Committee what if anything you may have discovered with respect to the recovery process?

Mr. Altman. As I said in my opening comments, the entire PLS area has been a troubled one. There have been complaints from both ends of the spectrum about over-zealousness and about inadequate pursuit.

We have had, as GAO in its report noted, a high degree of turnover and difficulty recruiting and retaining experienced attorneys because of the temporary nature of the RTC.

After all, here we are with less than two years to go.

Senator Kerry. Currently that is true. What about in the late 1980s?

Mr. Altman. Well of course the RTC has always been intended to be a temporary agency. I just refer you to the GAO report which concluded that that was a particular problem.

As I mentioned, we have made a series of efforts to strengthen that--the most important of which is to hire a very good and a very strong general counsel.

When we inherited responsibility for the RTC, despite its being such a large institution--as I said, larger than almost any private financial institution in the country--it did not have a full-time general counsel. That is a very important step we took.

We have also got more PLS attorneys on board today than ever before in the history of the organization. So we are making every effort to try to fulfill all the responsibilities we have in this area.

I do not think there is any way to know, Senator--or if there is, I do not know--whether, or what percentage of recoveries have been made compared to the potential that an ideal effort, or a perfect effort would have obtained. I do not know the answer to that.

Senator Kerry. My time is up. Thank you very much.

The Chairman. Thank you very much, Senator Kerry.

Senator Bond is next.

Senator Bond. Thank you very much, Mr. Chairman.

Mr. Altman, are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high-profile individual? Someone in government, for example?

Mr. Altman. The procedures, Senator, which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning.

Senator Bond. After you discovered that the President of the United States's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?

Mr. Altman. When the possibility of a criminal referral was brought to me, I took one step. That was to instruct all of the relevant RTC personnel to handle any judgments about criminal referral in the same exact fashion that they would be handled in any other PLS matter with no deviation whatsoever.

As far as documents are concerned, the same thing.

Senator Bond. You instructed them to handle the documents in the same way?

Mr. Altman. That is correct.

Senator Bond. Were there any instructions received by you or, to your knowledge, anyone in your agency from the Department of Justice, the White House, or Special Counsel with respect to the retention of documents?

Mr. Altman. To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that.

With regard to Justice and Special Counsel, I am advised there have been conversations, the essence of which is with each party reminding the other not to take steps or release information which could jeopardize either party's investigation.

Senator Bond. Given the facts I set out in my opening statement, we are concerned about whether all the documents are there.

Can you assure the Committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy, or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners, or business partners?

Mr. Altman. I have no knowledge whatsoever of any such effort.

Senator Bond. Has anyone in your agency--specifically the Department of Records Management--indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?

Mr. Altman. No.

Senator Bond. You are absolutely sure--

Mr. Altman. No. Your question was: Has anybody indicated to me.

Senator Bond. All right.

Mr. Altman. The answer is, "no."

Senator Bond. Would you inquire of your Records Management Agency whether they have either (a) been given instructions about the handling of documents from somebody outside; or, if they have found any evidence of missing documents, or find that there are documents apparently missing, if you would inquire of that and advise us if you do find that there is such information?

Mr. Altman. (Nods in the affirmative.)

The Chairman. I think the stenographer should note that he is nodding in the affirmative.

Mr. Altman. "Yes."

Senator Bond. Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice, and copies of the second referral on October 1993?

Mr. Altman. Senator, we are not in a position to release any documents that could have a negative impact on the investigation. I do not think you would want us to do that.

Documents of that type that you are talking about fall into that category.

Senator Bond. Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clinton in 1987.

What steps have been taken by your agency to recover those files, or to ascertain where those files might exist?

Mr. Altman. I have no knowledge of that matter.

Senator Bond. Have you heard of the allegation?

Mr. Altman. Actually, no.

Senator Bond. Mr. Altman, I know there are many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We do not know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and, if so, to take appropriate steps to recover such documents.

Finally, where are the documents being kept? And have they been thoroughly catalogued?

Mr. Altman. Well, I can assure you that all proper procedures relative to safeguarding of documents are being followed.

We also have a responsibility in regard to any case to obtain all the necessary materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain, or would help it reach a conclusion on a litigation decision on this or any other matter, it makes a maximum effort to obtain.

Senator Bond. But on that, you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton?

Mr. Altman. None whatsoever.

Senator Bond. Thank you, Mr. Chairman.

The Chairman. Senator Boxer.

Senator Boxer. Thank you, Mr. Chairman.

I want to pick up on where Senator D'Amato left off with Mr. Hove.

Mr. Hove, we a Bush appointee, you were familiar obviously with the laws in those days regarding conflicts of interest, and you said that at that time there had to be a direct conflict of interest, and the appearance of a conflict of interest now is considered important; but at that time, that is not the way things were done?

Is that correct?

Mr. Hove. That is correct, Senator.

Senator Boxer. So the law was strengthened, and now you have to look at the appearance of a conflict of interest?

Mr. Hove. It is not a law; it is a procedure that we have at the FDIC.

At that time, we were looking only at the conflict of interest. Now we look not only at the conflict, but also at the appearance of any conflict.

Senator Boxer. Right.

Well, Mr. Chairman, I think this is a very important point. What I would like to suggest is this:

My colleague, Senator D'Amato, is very interested in this one particular S&L which, as I understand it, on the list of failures is the 194th largest in the country.

I am also interested in seeing if there were conflicts when lawyers were hired in some of the bigger closers. For example, there were as I understand it, 14 S&L closures that cost the taxpayers more than $1 billion each.

Of these mega-failures, 6 were located in Texas, 2 in California, 2 in Arizona, 1 in New Jersey, 1 in New York, 1 in Florida, and 1 in Pennsylvania.

I would like to ask you--and since the Chairman said a Senator can make a request--that in these mega-failures, these six, I would like you to go back and take a look at the law firms that we used at that time to see if there were conflicts of interest and, at the same time that you issue this to Senator D'Amato, I would very much appreciate knowing that.

Because I do have a big concern about the scams that were going on at that time.

Mr. Hove. Senator, many of these cases probably were the RTC cases and not the FDIC. The reason that we had this case was that we inherited the FSLIC cases in late 1988 or early 1989. This one came to us at a window of time prior to RTC's being created.

So I think that your request might better be directed toward the RTC.

Senator Boxer. Well, then I will make that request to the RTC and ask that we have that report.

Would I make that to Mr. Altman, or Secretary Bentsen?

Mr. Chairman, who do you think would be the appropriate person?

The Chairman. Well, they both are hearing it.

Mr. Altman. Yes.

(Information to be furnished.)

The Chairman. Well, I will assume that will be done because, as I say, what I find most incredible is that there is this outrage directed at one particular situation, and it is so obvious why.

You know, Mr. Chairman, I just want to say this, if I might, and I will get back. I just have to say this, if I might.

We all bring our experiences to the table, to our Committees, to our work. As I sat through this, I had this sense that this reminded me of something, they dynamics here. It comes back to my being a mother and my experience in raising two kids.

When they wanted something, they made a pretty strong case. And when they really wanted something, they stamped their feet. And if I gave them what they wanted, I expected them to be happy because I acceded to their request.

And if they kept on stamping their feet, I would tell them: You are unreasonable. And if they kept it up, I would take further action.

But I think what I see going on here is that there was a demand for the best and most impartial person to look at a situation that obviously had a lot of political overtones.

In an attempt to handle it fairly, that request was granted. And we do not know the end result. But what I see happening here, Mr. Chairman, is that the people are still stamping their feet as if nothing has been done.

Something very important has been done. A lease has been taken on offices for something like four years. Eight attorneys are looking at this whole situation. Every question that has been asked by my colleagues is being looked at not by a Democratic prosecutor, as Senator Kerry has pointed out, but by a Republican prosecutor and someone who I believe has the faith of the American people, if not some of the Senators here today who seem to want to interfere in that investigation.

The Chairman. Senator Boxer, I might just say that you may or may not have seen this in this morning's Washington Post, but there have been 25 FBI agents assigned to work with the Special Counsel, in addition to that legal staff that you cite.

Senator Boxer. Yes.

And, Mr. Chairman, I have to say that gives me great comfort. As much as I respect my colleagues' skill at questioning and badgering, I would rather have this matter handled by someone who is so well respected and cannot be accused of partisanship as my colleagues on the Republican side here could be, or I could be, or Senator Kerry could be.

So let us stop stamping our feet, and let us say this is good; that this investigation is going forward. I really do have faith that we will find out what the problems were, and we do not know where it all will lead, but I do not think that turning this hearing into a brow-beating of witnesses here does any good at all.

I have some written questions I would like to submit, but I would have to say overall I am pleased with the report that we are getting. It seems to me we are moving along, perhaps hopefully under budget, moving forward with women and minorities and the things that many of us care about, and going after these crooks.

Thank you.

(COMMITTEE INSERT.)

The Chairman. Did you want to say something?

Mr. Altman. No, no. I just wanted to note to Senator Boxer we would respond to that question you were asking.

Senator Boxer. Thank you. I really look forward to seeing that for those six institutions.

Thank you.

(COMMITTEE INSERT.)

Secretary Bentsen. I might want--

The Chairman. Senator Bennett--Excuse me.

Secretary Bentsen. --to respond, too.

My responsibility as Secretary of the Treasury is in oversight, and I am specifically precluded from intervening in individual cases. That is the function of the RTC.

Senator Boxer. But the RTC will do that. Thank you.

The Chairman. Senator Bennett.

Senator Bennett. Thank you, Mr. Chairman.

I agree with Senator Boxer. We all bring our personal experiences to this.

I will try to stop stamping my feet. I think that is an appropriate response.

Senator Boxer. You have just been tapping your toe.

(Laughter.)

Senator Bennett. I have just been tapping my toe.

I just, however, out of my own experience share with you the number of times that I as a loyal Republican went to the White House in the Nixon Administration and kept saying:

"You have got to get this out. You have got to find out who is behind this and tell the truth."

And I kept getting told:

This is a third-rate burglary that nobody cares about. I am sure on a list of breaking and entering this would have--the Watergate breaking and entering would have been considered very, very minor.

And people kept saying to me: No, no, it will all blow over. Well, it was members of your party, Senator Boxer, who kept stamping their feet and kept the thing up.

A special prosecutor was appointed whom, in my recollection, was a Democrat. I think Mr. Cox did not have very good Republican credentials when he was appointed to that circumstance.

Senator Kerry. He was a Republican, one of the good ones from Massachusetts, but he was a Republican.

Senator Bennett. He was a Republican? I knew his law partner. He was a Democrat.

(Laughter.)

Senator Bennett. We need not beat this further, but I do hope everybody understands that when there is an allegation of wrong doing, the smartest thing any politician can do is get all the facts out on the table.

I have tried to do that when I have been accused of making mistakes. I have discovered that the very best thing you can do politically is not try to cover it up, and that is the only advice I give my friends in this circumstance having lived through the Watergate thing on the other side of it.

Senator Kerry. Can I just take 30 seconds to say to my colleague, that is exactly what we did. Senator Moynihan, national television; Senator Bradley, Senator Bob Kerrey, myself and others said: appoint a Special Prosecutor, and indeed the White House turned around and did it while the President was in Europe.

Senator Bennett. I understand all that, but I also understand that the stamping of the feet that went on prior to that probably had something to do with that decision. I do not think it was entirely sound public policy on the minds of the people on the other side.

Let us get back to the RTC, if I can.

I do want you to refer carefully to the article that I put in my opening statement. You have talked a great deal about minorities, and women, and I yield to no one in my desire to see to it that there is fairness done.

The allegations that were made by the gentleman from Denver, however, is that there is serious reverse discrimination going on in the RTC; and that anyone who does not fall in that category cannot get a job and cannot get a promotion.

And if that is true, that is something I think you should pay attention to. So I would ask you to review that.

Now I make reference to continuing sales. Again, this is a personal circumstance. I have had a number of people come to me in Utah and say:

Here is a marvelous investment opportunity to pick up at fire sale prices properties that can be enormously valuable. I have decided finally to divorce myself from having to make any investment decisions, and I have put all of my assets in a managed trust and trust the trustees of that trust to make those kinds of decisions.

But I said to them, I cannot personally invest in this because I sit on the Banking Committee and it is involved in oversight of the RTC, and these are RTC properties.

But I did, prior to creating the managed trust for my assets, go through the process of looking at them. As a businessman, I can say you really are moving them very rapidly because it struck me that some of the prices were indeed unduly low, and that the RTC could in fact have gotten a better price almost as quickly, if not just as quickly, as they were getting for some of these properties.

Do you have a sense on that issue?

I am not accusing you of anything. I simply want you to talk about it.

Mr. Altman. Well first of all, Senator, we have a statutory responsibility to maximize recovery for the taxpayer. So we must pursue sale techniques which respond to that goal.

Second, all RTC assets for practical purposes are sold at auction, an auction of one kind or another. So rather by definition, the price which the market establishes on that day is the price.

It is always possible to look back on any transaction and say you should have done it later, or you should have done it earlier, but fundamentally all of our sales are on an auction style basis.

I think the only other point I would make is that we are now are in--our inventory today is of the harder-to-sell variety as we are getting down toward the end. So our recovery rates, as I mentioned in my statement, are lower.

I think last year we recovered at a rate of 76 percent of book value, and this year it will be in the mid-60s.

Senator Bennett. Let me just go back to your earlier statement.

I understand what you are saying here, and I do not want to be argumentative about it.

In one instance were were told, I was told, that while it was technically an auction, the RTC had determined the price; and that if I would simply submit a bid for this price, I would be guaranteed to get it; that the RTC would not entertain any other requests.

I turned it down, as I say, for the reasons I have described, although I will say to my colleagues that the Ethics Committee told me I need not have done that, I could have made the investment.

I decided to avoid the stamping of feet later on in some future campaign in Utah. I would not run the risk. But it was my understanding that the people who did ultimately pick up the property did it for the price we were told was the price. We were told, yes, this is technically an auction. There will be a sealed bid, but this is the sealed bid we want. And if you submit it at that price, we can guarantee that you will get it.

Mr. Altman. I would like to make two points.

The first is: That is not how it is supposed to work. If it worked that way, taking your comments in their entirety, it should not have.

Second: The RTC does reserve the right to reject bids and to establish in effect reserve prices, or floors. So it is not the case--it is not always the case that whatever the high bid is, it is accepted.

But there should never be an auction where any such indication or any such knowledge is provided beforehand. If it was, it was a mistake and should not have happened.

Senator Bennett. I will just assume that it was a mistake at a particular circumstance, and I am grateful to you for your response.

The Chairman. Well, perhaps a look could be taken at what was going on there. Let us not have it happen again.

Senator Sarbanes was not given a chance, or was not here in the sequence to give an opening statement and has asked to do so, and I am going to acknowledge that, as I do with everyone.

Then after he has done that, we will start his time clock on questions.

Senator Sarbanes.

Senator Sarbanes. Well, Mr. Chairman, I will be brief. I do not want to impose on my colleagues, but I cannot forego the opportunity with Chairman Greenspan here before us not to talk about interest rates just briefly, since I think they are so essentially involved with where the economy may be going.

I just want to make a statement about that.

I have met with the Chairman from time to time, both privately and of course in public sessions, and I have raised with him the concern that a hike in short-term rates would raise long-term rates.

The Chairman's position has been, as I understand it, that when short-term rates go up, long-term rates would initially rise but that within a few weeks or so they would settle back down to a level near where they had been when short-term rates were raised.

We then contacted the Fed for the analysis that in effect was the underpinning for this statement. We have had difficulty getting that analysis, but it has finally been forthcoming.

The Fed says, and I quote, the Fed staff:

"As you have noted, short and long term rates do tend to move together."

They then go on to make a rather subtle argument that, to the extent that the Fed is ahead of the curve, the response of long-term rates is less than when the Fed is moving too little too late in responding to a buildup of inflationary pressure.

So in a sense they are shifting, as I understand it, the position that was asserted to me by the Chairman.

On the morning of February 4th when the Federal Open Market Committee raised the Fed fund rate from 3 to 3.25 percent, the 30-year bond rate stood at 6.30 percent.

Since that time, long-term rates have risen steadily. As of the close of business yesterday, the 30-

year bond rate was 6.65 percent. Thus, since Fed funds were raised, long-term rates have risen by 35 basis points--in other words, more than the 25 basis-point increase in short-term rates.

Now last summer at a hearing with Henry Kaufmann and Paul Samuelson, copies of which testimony were sent to the Fed with a request that it be distributed to members of the Open Market Committee, Henry Kaufmann argued that raising short-term rates could lead to higher long-term rates.

In other words, the contrary of this position that was asserted that if you take up short-term rates you can bring down long-term rates, and I quote Kaufmann.

I also take issue with the assertion that a small increase in the Fed Funds' rate this summer would be welcome by the financial markets and would accordingly lead to a decline in bond yields.

Perhaps.

But equally likely is that the bond market would interpret such a rise in the federal funds rate as the first in a number of future increases, and market participants might easily react by pushing bond yields higher.

Under that scenario, the rise in the Federal Funds Rate could magnify inflationary expectations, precipitating a sell-off of bonds.

Now just today, Hobart Rowen, one of our Nation's most perceptive economic commentators, has an article in The Washington Post headed "The Fed Meddles," and I just want to quote from it briefly:

"As it has many times in the past, the Federal Reserve Board is taking the country down the wrong road by raising interest rates. It has violated the dictum, 'if it ain't broke, don't fix it,' and as a consequence the smooth recovery from recession that has cheered business and consumers over the past year is being threatened. Fed Chairman Alan Greenspan told the Joint Economic Committee in widely analyzed testimony January 31 that the Central Bank which had allowed interest rates to fall to record lows would not change policy to slow economic growth. But four days later on February 4th, the Fed raised short-term interest rates by one-quarter of a point in a 'preemptive strike' against future inflation. To make sure there was no doubt in the markets that the Fed had decided to interrupt the easy money pattern, Greenspan publicly announced the move. In new testimony this week, Greenspan failed to justify the Fed's action. He admitted that there was no discernible inflation; that wages are not moving up; that there is virtually no fear that the economy is growing fast enough to make over-heating a danger."

Now the whole problem here--and this is to close this statement and then I just have a couple of questions to put to Mr. Altman. I will not take anywhere near my question time--is all encapsulated in this cartoon.

(A cartoon board is displayed.)

Senator Sarbanes. Which shows this truck moving down the road that says "economy." And the economy has been moving down the road, and we all want to see that.

The driver here has got his hands up to his head in horror. He is slamming on the brakes, as you can see, "Brakkkk," "screeeech," bringing this truck labeled "The Economy" to a halt.

The reason he is doing it is because out here in the middle of the street is a man labeled "Greenspan"--

(Laughter.)

Senator Sarbanes. --and he is bending over here. He is out in the middle of the road out in front of the truck, obviously forcing it to come to a screeching halt.

He is bending over to pick up these papers here that say "interest rates" and he is saying:

"Let's see. We'll just pick these up."

Now--

Chairman Greenspan. You know, Senator, I pulled a muscle in my back and I am now just realizing how I did it.

(Laughter.)

Senator Sarbanes. Well, I am glad we found the explanation for it, Mr. Chairman.

Senator Kerry. You know, Mr. Chairman, if you said something really interesting now about interest rates, you could functionally terminate this hearing and relieve us all.

(Laughter.)

Senator Sarbanes. Mr. Chairman, I know that is not the focus of today's hearings, but I think this matter is of such importance.

The Fed of course is urging the Congress to stay the course on fiscal policy. I happen to agree with that. I think we ought to stay within the constraints of the agreement that was reached last year, and I expect that we will.

But by the same token, it is my own view that the Fed should have stayed the course on monetary policy certainly until we had greater assurances that real growth was taking place in some lasting and permanent way, and some evidence that one can look to that indicates that we are beginning to get some kind of an inflationary problem.

Now, Mr. Altman, I just want to put a couple of questions to you.

Earlier you were questioned by one of my colleagues on the other side who went through a list of sort of have-you-stopped-beating-your-wife type questions, I thought. So let me try to turn it around and get it. I want to be sure.

Do I understand that the cases to which they are making such reference were handled in the same way that all other cases were handled? In other words, according to regular procedures?

Mr. Altman. Yes.

Senator Sarbanes. And was anything unusual done in these cases? Or was the procedure that was followed consistent with what was followed in any cases where references were made?

Mr. Altman. Senator, the instructions that I gave were that all procedures, normal procedures, should be followed in this manner without any deviation.

Senator Sarbanes. And to the best of your knowledge, that is the case?

Is that correct?

Mr. Altman. Yes.

Of course I am commenting as to the handling of the case under my responsibility. I am not making a comment about matters that I have no knowledge of of three or four years ago.

Senator Sarbanes. Well I understand that. But as I understood the questions that were put to you, it was with respect to your own responsibilities.

I do not know how you could be expected to assume the responsibilities of others, so to speak.

Mr. Altman. (Nods in the affirmative.)

Senator Sarbanes. Mr. Chairman, I just have one comment about the constant reference here to Madison, and Whitewater, and so forth.

That is, that an Independent Counsel has now been selected. I read the transcript of his press conference with the Attorney General when it was announced.

Actually, as I understand it, or as he said, he defined the scope of the investigation. In fact, he says:

"I am totally satisfied that I will have the independence and complete authority to do this job right."

And then the resolution by which his jurisdiction is defined--this is Robert Fiske now I am talking about:

"This resolution has been drafted broadly. It was drafted by me to give me the total authority to look into all appropriate matters relating to the events that bring us all here today." And he then go on to specify that.

Now of course I think Fiske is regarded highly. In fact, Senator D'Amato called him "a man of unflinching and uncompromising integrity. He is the kind of person who will bring out the truth for the American people so there will be no question as to the thoroughness and objectivity of this investigation."

I do not differ with that evaluation, I say to my distinguished colleague from New York, from what I know about Mr. Fiske and what has been told to me about him, so I think that is an accurate evaluation of him.

Now the other point I want to address is, he was asked in that conference:

"Do you think that a Congressional hearing of any kind at this point might hamper your investigation?" This was a question put to Fiske at that press conference when he assumed his responsibilities. And this was his response, and I am quoting. This is now Robert Fiske I am quoting, the Independent Counsel:

"I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a Congressional investigation is going on. The decision whether to have such an investigation obviously is not mine, but I think just looking back at the past we can all see that that is not an easy relationship." End of quote.

I just wanted to put that on the record, because I think it is very important to understand that an independent counsel now has been selected. The independent counsel has been given a grant of authority. Actually, according to his own testimony, he defined in effect the grant of authority.

I have not quoted it, but the Attorney General is very clear here in her statements that he has a full scope to proceed as he deems necessary, and to call upon any resources that he thinks are advisable.

It seems to me that we have put the matter where it ought to be put.

Now there was some delay in getting to that point. I understand that. But that is the point we are at now, and it seems to me that that ought to be reassuring to the American people, that this matter will be looked into thoroughly and comprehensively, and that Mr. Fiske and his associates--and he is now in the process of putting together I understand a rather large and first-rate staff--will get to the bottom of this matter.

I think it is very important that that be put on the record.

I thank the Chair.

The Chairman. Thank you, Senator Sarbanes.

I made reference earlier--I will just take one moment before calling on Senator Faircloth--I made reference earlier to the actual legal charter of the Independent Special Counsel Fiske which is published in the Federal Register on Friday, February 4th, and I have read it.

It is really quite a--I will just hold it up here. We will put it in the record so that it is there in the context of this discussion--but this is about as broad and as firm a legal mandate as anyone could have.

I notice here that under the Department of Justice the action to accord him that kind of operating latitude was in the form of a final rule. So this locks it in.

I mean, this independent counsel I think is highly regarded across the board from Senator D'Amato's comments to others that have been made by other people who know him well, has the authority to go anywhere he thinks it necessary to go.

I again make reference to that article today in The Washington Post because he is obviously setting up subsidiary investigative efforts where he is putting together teams to go down each and every issue, so that there are no questions left at the end of his work.

In any event, I urge my colleagues to take a look at this because I think it is instructive.

Senator Faircloth?

Senator Faircloth. Thank you, Mr. Chairman, and I want to thank you for the manner in which you have conducted the hearing. It has not been easy.

I had one or two quick one-liners, and then I had some questions.

(Laughter.)

Senator Faircloth. This is in sympathy with Mr. Altman.

I have bought and sold many a piece of land in my life. I never bought one that somebody did not tell me I paid way too much for it, and I have never sold one that somebody did not come immediately and tell me I should have gotten a lot more. But I survived.

(Laughter.)

Mr. Altman. And you probably did very well.

(Laughter.)

Senator Faircloth. Chairman Greenspan, I think two things. If we get nothing else out of all of this conversation, I believe it will demonstrate to the American people, and maybe to the Congress as a whole, that we need to keep the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision, and the FDIC as separate entities. It is well-spent money to have them separate, about the taxpayers' money, to keep it as it is and not be consolidating it into a political position. I hope that is it.

As Senator Sarbanes mentioned on your increase in interest rates and inflation, I have observed over the years that inflation is somewhat like Alzheimer's Disease. You have had it three or four years before you find out you really have it. And inflation moves before we--it goes underground a long time.

So I think you are absolutely right in increasing interest rates in anticipation of what might happen.

I have found that inflation--that a recession will scare you--in business a recession will scare you to death, but inflation will kill you.

I have a question for Mr. Hove.

Mr. Hove, it is my understanding that Webster Hubbell in his current position as Associate Attorney General and, in his words, "Chief Operating Officer at the Justice Department," has formally recused himself from matters regarding Madison Guaranty.

Would you agree with me that it would be improper for Mr. Hubbell to seek to involve himself in the FDIC investigation beyond what he was asked by the Legal Division?

And if you will, since that light is looking at me, I would like 'yes' or 'no' answers, if you would.

Mr. Hove. I think the issue of Mr. Hubbell recusing himself is an issue that Mr. Hubbell has to deal with.

Senator Faircloth. Have you had any communication with Webster Hubbell concerning the Legal

Division's report?

Mr. Hove. I have not.

Senator Faircloth. Are you aware of any communication between Webster Hubbell and an FDIC official in the General Counsel's office regarding Mr. Hubbell's role in the Legal Division's then-pending investigation and report?

Mr. Hove. Yes. Our Legal Division has had conversations with Mr. Hubbell.

Senator Faircloth. Are you aware of any communication between an official in the General Counsel's office in Washington and the FDIC official in the Kansas City, Missouri Field Office regarding Webster Hubbell's role in the then-pending investigation and report?

Mr. Hove. No, I am not aware of that.

Senator Faircloth. Would you be willing to let the General Counsel's Office release their telephone records for the week of January the 24th through January the 31st?

Mr. Hove. Senator, we are willing to release any non-confidential information that would be generally available to the public.

As you might know, many of these things would be privacy concerns, and we would be concerned about releasing those without redacting.

Senator Faircloth. So you would not release them?

Mr. Hove. No, sir, we will release them. We will release any non-confidential--

Senator Faircloth. Who decides whether it is confidential or not?

Mr. Hove. Well, does it deal with privacy of the individual?

Senator Faircloth. Well yes it does, but we need--Yes. Sure it does. That is what we want them for.

(Laughter.)

Senator Faircloth. Will you?

Mr. Hove. We will release anything that is publicly available, yes, sir.

Senator Gramm. Not "publicly available" or we would not be asking for it to be released.

Senator Faircloth. That is right. If it were in the Want Ad Section, I would automatically get it.

(Pause.)

Mr. Hove. We have a log of everyone that we have contacted--everyone we have talked to on the phone, and we will release that.

Senator Faircloth. All right. That is what we need.

I see in The Wall Street Journal and The Chicago Tribune that you found no conflict of interest between Mrs.

Clinton and her work in the Dan Lassiter and First American Savings & Loan, that you found her completely innocent.

Mr. Hove. Senator, let me talk about that issue, because that was not an FDIC issue. That was not an investigation or a review that the FDIC has done.

That was an issue that happened before FDIC ever became involved. That was an issue between the old FSLIC, the old Federal Savings and Loan Insurance Corporation, and the failed Savings & Loan, First American, in Illinois.

They had filed a suit against Lassiter. They had settled that suit before FDIC ever became involved in that. It was an issue that had happened way before FDIC ever became involved in it.

We have not reviewed that.

We have looked at--

Senator Faircloth. Excuse me. May I ask one quick question?

Mr. Hove. Yes, sir.

Senator Faircloth. Who settled it? Mrs. Clinton and Foster? It was settled? You say it was settled by Mrs. Clinton and Foster?

Mr. Hove. I am not sure that it was settled by Mrs. Clinton. Mrs. Clinton's involvement was to sign an amended complaint for Mr. Foster that amended the complaint from the Savings & Loan against Lassiter. That was her only involvement in that case.

Senator Faircloth. All right. Go ahead. I am sorry. I interrupted you.

Mr. Hove. That case was settled over six years ago by the Conservator. The Conservator for that Savings & Loan had hired a law firm in Chicago.

The law firm in Chicago subcontracted the Rose Law Firm to work on this case for them as the Conservator.

The law suit was settled before we ever got it. Normally these facts would not trigger an investigation for us, but because of the increasing public interest, and if you choose we will conduct an IG investigation to determine that, but again the records are scattered all over because it is the old FSLIC records and they were not compiled in any one location.

So it is a very difficult issue.

There is no single repository of these records.

We would be willing to assist your staff in locating any of these records that may be available, and to make some determination as to what the involvement was.

Senator Faircloth. So this clearing of Mrs. Clinton in any involvement with the American Savings & Loan and Dan Lassiter was not done by the FDIC, it was done by the--

Mr. Hove. We have not cleared it.

The only contact we have had on the First American Savings & Loan and the Lassiter case was a press contact that came as a result of an article that appeared first in The Chicago Tribune.

We responded to that saying exactly what I have told you, that this was not an FDIC issue, that it was in fact a FSLIC issue that occurred before FDIC ever became involved in any FSLIC issue.

The issue was settled. The settlement was made before FDIC ever became involved in this issue.

Senator Faircloth. All right. But would the statute run on it? Could it be opened by the Special Counsel?

Mr. Hove. I have not any idea. That is a question I guess I would have to ask my attorney.

Senator Faircloth. Ask him.

Mr. Hove. I do not know.

Senator Faircloth. Thank you.

The Chairman. I will repeat again, and you will read it from this Federal Registry:

The Independent Special Counsel has two authorities. One authority is for criminal prosecutions. The other authority is to proceed with civil actions.

Now the civil authority does not relieve any other regulatory body of whatever civil action they might appropriately take. The point is that the Special Counsel has the specific grant of authority to proceed down both tracks.

It is laid out four different times in this charter of responsibility, and that is a very important point.

Senator D'Amato. Would the Chairman yield just on that point, because to be quite candid with you, until the Chairman read the grant of authority I was given to believe that the Special Counsel would confine himself to the criminal side.

I am not suggesting to you that the grant may not give him broader powers. I would think it would behoove us, and I am not attempting to get the exact language determined now, but if we could not, then a letter from this Committee and ascertain indeed will he undertake a review of the various civil matters such as the one brought up as it relates to this last matter that Senator Faircloth brought up, and there are some others.

I think that would at least set the record straight. You might want to put that to him and again have our counsel work together to put forth the appropriate question.

I think we should determine indeed is that the case.

Secondly, I make a quick point, and I beg the indulgence of my colleagues, by stating that I think that if you notice at least where I have been attempting to take this, and I think some of my colleagues, to ascertain what if anything did the RTC, did the FDIC do in connection with these matters?

That is not at variance with the charge of the Special Counsel. We are not, in attempting to find out what was done and what was not done, in any way disturbing his investigation.

I think we have an absolute right to know what was done. We have an absolute right to know the appropriateness of the actions.

Senator Boxer. Mr. Chairman, may I have a point of procedure?

Senator D'Amato. I would like to finish--

Senator Boxer. Whose time are we on now? I have lost track.

Senator D'Amato. I am going to do it, one way or the other--

Senator Boxer. I do not have any objection to your doing it; I am just confused. Is this Mr. Faircloth's time that you are on?

Senator Domenici. He had no time left.

Senator Boxer. Or is this added time, so we can all get added time?

Senator D'Amato. I asked the Chairman if he would indulge--

The Chairman. He asked the indulgence of the Chair, and I am going to let him finish his point here, and then we will move to the next person here.

Senator Boxer. Okay. Fine.

Senator D'Amato. So again, this is not an attempt to do anything other than to see what has been done to date by those various agencies that have the collective and the individual responsibility to deal with these matters. That is one.

Secondly, it would seem to me that it might, to clarify the issue, certainly I was led to believe, and maybe incorrectly so, that the Special Counsel was not going to look into civil matters.

I think it is important for us to ascertain that. So I put that to the Chairman, that possibly we review that matter. I am not looking for an answer at this time.

The Chairman. Well, I am just going to take a minute and just read it into the record, because I do not want it to be--I know, but it is important, and the words are on paper, and this is the official charter.

I am going to read from page 5321 of the Federal Register of February 4th of this year, and I am just going to read three or four different lines here that appear at different places.

Here is the first one:

> "The Attorney General has appointed this Independent counsel to investigate whether any individuals or entities have committed a violation of any federal criminal or civil law" and it goes on in that vein.

Then over on the next page it says again, "... have committed a violation of any federal criminal or civil law relating" to. And then it says "... a violation of any federal criminal or civil law". And it says it one more time further on down the line here.

So it is clear. My interpretation of this is that it does not relieve any regulatory body of any proper actual efforts that it should properly undertake and determine to undertake, but it says that the Special Counsel clearly has the authority to move down both tracks if in his judgment he should find that that is warranted--and it is a very important fact.

(The information follows.)

Senator Domenici. Mr. Chairman?

The Chairman. Senator Domenici, let me just say that we are at the point now where either you or Senator Gramm will get to ask questions. You are both here, and I do not know if either of you have--one will follow the other, but do either of you have a time problem as to who goes first?

Senator Domenici. Well, I just wanted to ask you a question on your charter interpretation there.

The Chairman. It is not an "interpretation." It is the final rule that was laid down.

Senator Domenici. What is the Special Prosecutor supposed to do if they find a civil law violation?

The Chairman. He has the full legal empowerment to take whatever actions he deems necessary, and all the investigative and prosecutorial authority to do so.

I mean, this is an absolute charter. Take a look at it.

Senator Domenici. Thank you, very much.

Senator Gramm, I have a little bit of time, although I am late for an event, but if you want to go I will let you go now and I will follow.

Will there be another one from the other side that has not inquired yet?

The Chairman. You are the last two that have a chance to question, so we will go back and forth.

Senator Domenici. Well, go ahead. Are you going to keep it brief, Senator, and short?

Senator Gramm. No.

(Laughter.)

The Chairman. Senator Gramm.

Senator Gramm. Let me begin. I have just got a simple question that I want to ask of most of the members of the panel, and let me just read it.

Mr. Altman, I want to ask you first.

Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

Mr. Altman. I have had one substantive contact with White House staff, and I want to tell you about it.

Senator Gramm. Let me, if I may, just given that 'yes,' I would like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

Mr. Altman. First of all, I initiated it.

About three weeks ago, Jean Hansen, who is Treasury's General Counsel, and I requested a meeting with Mr. Nussbaum--he is the White House Counsel.

The purpose of that meeting was to describe the procedural reasons for the--the procedural reasons for the then-impending--then-impending--February 28th deadline as far as the then-statute of limitations was concerned.

I am sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims.

And we explained the process which the RTC would follow in reaching a decision before that February 8th[sic] deadline; that it would be exactly identical to procedures used in any other case, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim, or whether there did not.

And in the event a basis for a claim existed, then it would pursue either a tolling agreement--which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest--or it would file that claim in court.

That was the whole conversation. I was asked one question. That question was whether we intended to provide the same briefing to attorneys for the parties at interest.

I said, I assume so.

I went back. Jean Hansen checked with the RTC General Counsel. The answer was: In due course.

I said, fine, that was it.

I have not had any contact with the President of the United States or the First Lady on any matter like this.

Senator Gramm. If I may, let me pose the same question to Mr. Hove.

Have your or any member of your staff had any communication--

The Chairman. Mr. Hove, let me just--I do not know if you know this question is being addressed to you.

Senator Gramm. Have you or any member of your staff had any communication with the President, with the First Lady, with their representatives, including legal counsel, with members of their White House staff, concerning Whitewater or Madison Savings & Loan?

Mr. Hove. Our Director of the Office of Communications at the FDIC had received a call from a press person at the White House after the second article appeared in The Chicago Tribune regarding the First American issue.

They asked, did we have any statement? And the response given to the White House was, no, we did not have any statement.

Senator Gramm. So they were asking you to respond to the press statement?

Mr. Hove. It was Mrs. Clinton's attorney.

Senator Gramm. Mrs. Clinton's attorney called

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you?

Mr. Hove. I'm sorry. It was Mrs. Clinton's attorney that called the FDIC Office of Communications.

Senator Gramm. So Mrs. Clinton's attorney called the FDIC and asked you to respond to a press statement?

The Chairman. No, that is not what he said.

Senator Gramm. Well, I am asking him what he said. I am not trying to speak for you.

What did Mrs. Clinton's attorney ask you to do?

Mr. Hove. They asked, did we have any statement, and we responded, no, we do not have a statement.

Senator Gramm. Would it be normal that someone's attorney--did this attorney work for the Federal Government?

Mr. Hove. No. This was Mrs. Clinton's attorney.

Senator Gramm. When did this call occur? Do you know?

Mr. Hove. After the second article appeared in The Chicago Tribune, and I cannot tell you the date of that. It has been in the last, what, two weeks or so? I do not know.

Senator Gramm. And you were asked if you had a response that you were going to put out on it, and you said, no?

Mr. Hove. That is correct.

We responded to the first statement, the first article that appeared in The Chicago Tribune. We pointed out the errors of that article, that it was not an FDIC matter, exactly the same thing that I responded to Senator Faircloth.

Senator Gramm. And to the best of your knowledge, you have had no other communication? You and your staff have had no other communication with all the people that I listed?

Mr. Hove. That is correct.

Senator Gramm. Let me pose the same question to Mr. Fiechter and to Ms. Ford.

Mr. Fiechter. To the best of my knowledge, I know I have, and CTS staff has had no communication whatsoever with anyone from the White House about this, or that list that you included in your question.

Ms. Ford. Neither the Oversight Board Staff nor I have had any involvement in this matter.

Senator Gramm. Let me raise a second question. It is a thing that I have tried to understand in looking at where we are and what we need to do to get on with finishing this matter.

Part of the problem that we have had in the past with regard to Congressional hearings and Congressional involvement really involves two things.

One has been the granting of immunity by

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Congressional panels for people who would testify.

The other is that under the Constitution, the testimony of a member of Congress is a privileged matter that is given special treatment.

In this case, I am not aware that anyone in holding a Congressional hearing or looking into this matter would be talking about--I do not know of a committee that would be empowered to grant immunity. No such resolution has passed the Congress.

We are not talking about a member of Congress where there is a special Constitutional provision. I would just like to pose the question:

What would be wrong with letting members of this Committee that have oversight responsibility look at the records in this case, or any other case, where we have oversight responsibilities?

Mr. Hove, let me post that to you and Mr. Altman, and then I see my time is up and I will stop.

Mr. Hove. Our position is that we will make access available, and we have, to Congressman Leach to all information that is, again, non-confidential documents.

Senator Gramm. How would you define what is "confidential"?

Mr. Hove. Again, those that would involve privacy information that would be non-germane to this issue.

Senator Gramm. And you would make that judgment?

Mr. Hove. Yes.

Senator Gramm. Mr. Altman?

Mr. Altman. First of all, Senator, we have already provided volumes of documents to the Congress. Senator D'Amato referred at the very beginning to documents he received last evening. I would have liked him to receive them sooner, but we only got the request last Friday.

But in terms of--and Congressman Leach has also received those documents. He has had them for some time. If my memory serves, there are 6500 pages.

The RTC has been asked not to make information about criminal referrals in the Madison matter public. It is standard practice not to release information of that kind, or any other, which might compromise a criminal investigation.

And of course we are cooperating with the independent counsel to try to assure that we do not release any information which would jeopardize his investigation.

As I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should.

Senator Gramm. Mr. Chairman, if I could have your indulgence, I have got here a text of a newspaper

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article in Phoenix that contradicts something that Mr. Hove said, and I am sure he does not want to let it stand.

I have got a response apparently after the second article where the agency, the FDIC, did in fact make a statement. It says:

"The agency says Mrs. Clinton's involvement in the case was not extensive enough to constitute a conflict of interest under rules governing federal regulation of savings and loans."

I have got this if you would like to see it.

Mr. Hove. Was that after the second--We made a comment. We made a public comment after the first article appeared.

Senator Gramm. This is 2/16/94.

Mr. Hove. And I do not know when those articles appeared.

The Chairman. Why do you not take a look at it, and let us go to Senator Domenici.

Mr. Hove. Senator, we commented after the first article appeared to correct any inaccuracies that was in the report.

The involvement that Mrs. Clinton had in that case was again, as I mentioned to Senator Faircloth, that she signed an amended complaint for her partner, Vince Foster, who was the attorney who was involved in the case.

That involved two hours that was billed on Mrs. Clinton's part on that case in which she signed the amended complaint.

As far as we can determine from the records we had, that was the involvement that she had had, and that is what we released at the time.

Senator Gramm. Well, if you would take a look at this and just let us know in writing if this was the second one, how the response was made, who made it, why they made it, that would be fine.

Thank you, Mr. Chairman.

(COMMITTEE INSERT.)

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The Chairman. Senator Domenici.

Senator Domenici. Mr. Altman, Stanley Tate was nominated by President Clinton to head the RTC and, while preparing for that confirmation, he was at the RTC in a consulting capacity.

That is all true, is it not?

Mr. Altman. Yes, sir.

Senator Domenici. When he withdrew his nomination, he attempted to release to the public materials he had prepared containing the RTC operations.

Are you and the Board familiar with the document that I refer to?

Mr. Altman. Generally, sir, yes.

Senator Domenici. Why did the Oversight Board prevent Mr. Tate from releasing that document?

Mr. Altman. Well, first of all, it was released.

Senator Domenici. You released it--when he left, it was not released, and you claimed it should not be released. But then eventually you provided the document to Senator D'Amato, I believe, or my office, but that was on December 23rd, 1993.

Why was it not released when he wanted to release it?

Mr. Altman. Well, Senator, my recollection is it was released rather promptly. Maybe not the day after he submitted it, but as a federal employee and a consultant, the materials properly were reviewed by his superiors before being released.

But I think the point is they were released in short order.

Senator Domenici. Did the RTC or the Oversight Board alter, edit, or sanitize this document before releasing it?

And let me say, if not, why did Dietra Ford, Oversight Board Executive Director, send a memo, and I have that, dated November 30th, to you about these materials which included the following sentence:

"I am forwarding the enclosed so that you can see the original materials and fully understand the disaster we narrowly avoided."

That last sentence is a quote.

What was the "disaster" that Mrs. Ford was referring to? Was this a reference to Madison? If it was not, fine. If it was, I think maybe we ought to know about it.

Mr. Altman. Senator, you should ask Mrs. Ford that question.

Senator Kerry. You may not like the answer, but--

Senator Domenici. Well, I just got this letter

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and it deserves an answer. If it is not what I want, that is fine. That is what we are here for.

Ms. Ford. We received the 200-page document the morning of his press conference, and we had only a quick time to take a look at it at the Oversight Board.

The Deputy General Counsel of the Oversight Board and I advised--

The Chairman. Would you pull the microphone up, please?

Ms. Ford. We advised Mr. Tate that the material should be reviewed by the Oversight Board staff, myself, as well as the interim CEO Mr. Altman before they are released to the public, and that he was a special federal government employee and therefore he was subject to the rules that apply in terms of ethics, the Office of Government Ethics, that apply to the release of documents which he obtained during his tenure as a federal government employee.

Senator Domenici. Well, that is what your letter says.

Ms. Ford. That is right.

Senator Domenici. What was the "disaster" that we narrowly avoided?

Ms. Ford. It was my interpretation that to release those documents before anyone in the Oversight Board staff, the attorneys involved, or who advised us, had a chance to look at them was inappropriate, and that is my choice of words, "disaster."

I think it is inappropriate to release documents before we know what they contain.

Senator Domenici. I thank you.

Let me quickly move to a couple of other ones, if I might.

Mr. Altman, I think you told Senator Bond that you would not make available any documents that "would have a negative impact on the legislation"?

Mr. Altman. No, I do not think so. I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation.

Senator Domenici. Well, this Committee held hearings on the failure of the Bank of New England in the context of an unsuccessful confirmation hearing on Bob Clark.

This Committee explored in detail transactions related to that bank. Voluminous documents were made available. Maybe this is distinguishable, but it seems to me that the same question could be asked here.

Why can you not release all of these documents for this kind of hearing?

Mr. Altman. Senator, we have had--or I am advised we have had a couple of conversations with Mr.

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Fiske, the Independent Counsel. He has asked us not to release any documents that could jeopardize his investigation.

I do not know why you would want us to do that, to jeopardize his investigation--

Senator Domenici. I do not want to.

Mr. Altman. --and we certainly do not want to, and we are respecting his request.

Senator Domenici. But if the Special Prosecutor has no objection to the Committee being provided copies of documents, can the Committee then count on the RTC's full cooperation in providing them?

Mr. Altman. You should direct that question to Mr. Fiske.

Senator Domenici. No.

If he has no objection, then can we count on you to release them?

Mr. Altman. I think the answer is 'yes.'

Senator Domenici. Does the RTC have an Inspector General?

Mr. Altman. Yes, sir.

Senator Domenici. Has the Inspector General investigated the conflict of interest allegations regarding the Rose firm?

Mr. Altman. I do not know the answer to that. I am nearly certain it is 'no,' because as you know it was not the RTC that ever had any retainer relationship or other relationship with the Rose firm.

Senator Domenici. But you are kind of the natural successor to what went on there.

I think when you took over you began some investigation of that, and we will show you that in a minute, but my question is:

If the FDIC agreed to have its IG look into Madison, would there be any reason why you would not?

Mr. Altman. I have no objection to the IG's looking into any matter that he sees fit to look into, or that he is requested on an official basis to look into. That is what he is there for.

The Chairman. Senator Domenici, I do not want to be arbitrary, but I do want to try to stay on the time clock if I can and go back and forth. We will continue until everybody has had a chance to cover what they wished to cover today.

Senator Domenici. Thank you very much, Mr. Chairman.

The Chairman. Chairman Greenspan, I want to come back to the interest rate situation because we had an opportunity to talk the day that the Fed took its first step after that was taken.

I am concerned about the question of what has happened since, and just your own expectations of what might happen and what has happened.

You have made further public comments in a hearing recently. I am just wondering, as you watch market reactions to the tightening move that the Fed made, are you seeing essentially what you expected? Or have you seen something, particularly in terms of the uptick on the long rates, something that maybe you would not have expected?

In other words, where are we now?

How do you read what seems to be taking place as a reaction to the Fed's policy adjustment?

Chairman Greenspan. Mr. Chairman, as Senator Sarbanes indicated, my expectation was on the basis of what has historically tended to be the case, that the type of increase that we have had would initially lead to some small increase in long-term rates followed by some edging off.

That has basically been the history, other things equal, and that is essentially what one endeavors to use so far as a forecast is concerned.

What occurred in the interim was, as I indicated to the subcommittee of the House the other day, is there was a growing concern that after the torrid pace of economic growth in the fourth quarter, which is apparently in the process of being revised up, that the possibility that we would not be moving to a much more moderate rate of growth was rising.

The first evidence that that was affecting market perceptions was when the Philadelphia Federal Reserve Bank released its monthly survey which showed a significant increase in prices paid by manufacturers for the month, early--I suspect it is early February. At the point at which that release was made, the long-term rates were very slightly above where they had been previous to the February 4th move. But what occurred following that was a general belief that the pace of economic activity may turn out to be somewhat stronger than most of the people in the market had anticipated.

To repeat what I said at the House Banking Subcommittee, that change in view in the market's perception led to a significant backing up of long-term rates, which is what typically happens when those types of expectations change.

As I said then, my impression of how one should interpret that Philadelphia report is more an indication of a pickup in economic activity, because commodity prices tend to be reasonably good proxies for new orders, and indeed I think that is what essentially that particular report was showing.

It is not a particularly good forecaster of inflation. As I said at the House Committee, we seem to be lacking the financial tender that usually is associated with inflation accelerating when you get a significant pickup in economic activity.

I am agnostic at this stage. I think it is too soon to make a judgment, but we will learn a good deal more as the data begin to come forward.

The Chairman. Well, but as I listened carefully to what you were saying, it seems to me when you say you do not see the inflationary tender, and that you are sort of an agnostic, I mean I gather you are saying you do not see yet a broad evidence of a build-up of inflationary pressure that really worries you?

Or is that not--I mean, put it in your words.

Chairman Greenspan. That is substantially correct.

The reason that we moved on February the 4th, and the reason I said we may have to move again, rests on the issue of having deliberately put through a significant degree of accommodation in the money markets after 1989 because we perceived that there were special balance-sheet factors and other headwinds which required that we move the short-term interest rates below where they normally would reside.

When it became apparent that the adjustments that we thought would occur, and in fact have been occurring in the balance sheets, got to a point where the economy could start to regain its momentum and gain a degree of expansion which seemed to be well entrenched, at that point the need to have excessive accommodative policies no longer exists.

The issue is not do we see inflationary pressures emerging, but what is the reason why we would want to keep the level of accommodation at a point where history tells us, if extended indefinitely, eventually does engender inflationary pressures?

So it is the issue--I would reverse the question. Not, do we see inflationary pressures; but what reason would we have, once the recovery seems well entrenched--as indeed I believe it is--would we wish to keep an excessively accommodative stance?

That is not a statement which says we are seeing inflationary pressures emerging.

Indeed, as I said in my prepared remarks to the House Committee, when we actually see inflationary forces emerging in the way of price changes which are clearly evident, the one thing that is sure at that point is we are very far advanced in the process. History tells us that that type of policy which we engaged in much too often is wholly inappropriate to maintaining long-term economic stability.

The Chairman. Well, let me just say to you I find that a very important clarification and point that you have just made.

I think it puts this in a somewhat different light than some of the commentary I think has given to it, because what I hear you saying is that you have had a monetary policy that has been overly accommodative in order to try to get sort of the engine going again, and that you over-corrected in a sense--

Chairman Greenspan. Deliberately.

The Chairman. --deliberately.

And now that it has gotten the traction that it needs to have, and as far as you can tell you are taking back some of that over-correction, but not for reasons of the fact that you see this inflationary tender building up here.

Chairman Greenspan. Precisely.

In fact, I have tried to make that point every time I have stated this and I somehow do not seem to get it across as well as I think I would like to.

The Chairman. Well I think you got it across pretty well right now, and we have got a pretty good size press table that I hope will have gotten it down, even though it is 20 to 2:00, which is sort of a late hour for us to all be meeting here, but I thank you for that.

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I think that is a very important distinction, and I think it is important for the economic system and the markets to understand what you have just said.

Senator D'Amato?

Senator D'Amato. Thank you, Mr. Chairman.

Mr. Chairman, I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up as it relates to any meetings with White House Staff or counsel.

Mr. Altman, I think you said that you and an official from Treasury sought out Mr. Nussbaum? Is that correct?

Mr. Altman. Yes, I did.

Senator D'Amato. Could you tell us why?

In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel.

Mr. Altman. Solely to ensure--

Senator D'Amato. Solely to?

Mr. Altman. Solely to be sure that he understood the legal and procedural framework within which the RTC was working.

If you recall, as I said, at that time there was a February 28th date which was the subject of major attention in the Congress and in the press. It is not uncommon of meetings of that type to take place.

And I describe it as a "heads-up" and a very stiff conversation.

Senator D'Amato. A heads-up? In what connection would that heads-up be? Do you mean that the statute of limitations was running?

Mr. Altman. No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28th.

Senator D'Amato. Were any representatives of the President or Mrs. Clinton, were any legal counsel, which I think would be appropriate, speaking to the counsel for the RTC, or people handling this particular matter?

I mean, was there any legal representation going on?

Was this you just called them?

Did they have any representatives, any counsel who may have been meeting with staff people, or talking to staff people?

Mr. Altman. I was accompanied by our General Counsel, Treasury General Counsel.

Mr. Nussbaum had his assistant with him. And Mr. Ickies and Margaret Williams were both at the--

Senator D'Amato. Oh? Ickies is in it, huh?

Let me ask you this. Prior to this meeting, was there any representation, was there any counsel that was being given representing the President's interests or Mrs. Clinton's interests, or anyone else that you were aware of as it relates to the matter that you went to brief them on?

Mr. Altman. No. Not to my knowledge. Nor were there any substantive conversations--subsequent conversations.

Senator D'Amato. Did anyone request this meeting?

Mr. Altman. I requested the meeting.

Senator D'Amato. **Was there any** other meeting **that may have been requested?**

Mr. Altman. No.

Senator D'Amato. [redacted] other meeting that [redacted] that the White House counsel requested?

Mr. Altman. No.

Senator D'Amato. Or anyone else from the White House?

Mr. Altman. No.

Senator D'Amato. Mr. Ickies?

Mr. Altman. [redacted]--I received no [redacted] requests for meetings.

Senator D'Amato. What about private counsel?

Did private counsel--I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel that was meeting with staff lawyers at some level?

Mr. Altman. Not to my knowledge, Senator.

Senator D'Amato. Ms. Ford, do you know of any?

Ms. Ford. No. I have had no involvement.

Senator D'Amato. Let me turn to the RTC Report which was dated February 8th, which we received last evening about 9:00 o'clock, "Resolution Trust Corporation."

I say to you that in reviewing this document that I think it goes a little further and does a little better job than the one that came out of the FDIC. But I found it interesting that in its conclusion on page 5 and 6, in the summary--in this summary before it reaches the disposition--it says:

(a) Rose represented Madison prior to its failure;

(b) --and I am not reading the whole sentence--

(b) Rose represented the FDIC/RTC subsequent to the failure of Madison;

(c) Rose did not disclose its representation of Madison before the Arkansas Securities Department, to the FDIC, or to the RTC. Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell--

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each

And by the way, I am going to, Mr. Hove, read something to you that is quite illuminating. You had better have your lawyers take a look at this.

When it gets all done doing that, it says:

"Based on the factual conclusions in the RTC Conflicts Report," it says, "we send it to counsel."

Now I have to tell you, I am going to ask--because you have no conclusion. It just says these are the facts. End of the facts, fellows. Now you do with it what you want and sends it to counsel, general counsel.

I am going to ask that this report and any other relevant material that was gathered by those who were working on it be submitted to the Inspector General. As you have indicated before, you certainly would not see--I do not see how that would impede anybody or anything, but I certainly would feel more comfortable that it goes to the Inspector General as opposed to the General Counsel.

I think it would guarantee the integrity of the review certainly in this Senator's mind, and I think in others.

Mr. Altman. Fine.

Senator D'Amato. Thank you, very much. I see that my time has expired.

I have another observation to make, and I will do that afterward at the appropriate time.

The Chairman. Senator Kerry?

Senator Kerry. Well, let me ask my colleague. Is that going to be the last? Or is there an intention of colleagues to go another round?

Senator D'Amato. I think some colleagues have some other questions they will raise.

The Chairman. I think we will have one more go-around here with those that are left who want to do so, and then I think we are probably done here.

Senator Kerry. It was my understanding that we were going to have another hearing here in 10 minutes, which I am also supposed to participate in. I am just curious what the plans of the Chairman are.

The Chairman. They have a different room that they are meeting in, so we will not run into a room conflict, but we are late in the day and the witnesses have been here a long time, so my intention would be to finish up around here after everybody gets one more round.

Senator Kerry. Well maybe I could ask just procedurally, I do not really want to use my time at this point, but it seems to me that maybe we could ask if anybody has anymore questions to ask of the Chairman of the Federal Reserve, because it seems not a great use of his time to sit here if all we are going to do is talk about another subject.

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Senator Domenici. Is my turn eminent here, or do I have a long wait?

The Chairman. Let me get my batting order here.

Senator Boxer. You have a long wait.

Senator Domenici. I do not want to keep him a long time, but I wanted to--

The Chairman. Actually you follow Senator Bond who will come after Senator Kerry, and then we will come back to Senator Boxer. So actually there are--

Senator Faircloth. How long is your question? Maybe they would let you--

Senator Domenici. I do not have a question of Mr. Greenspan. I just want to state for the record that frankly I believe the actions you took over the last three or four years have a great deal to do with the status of the American economy.

I frankly believe you were subject to some undue criticism, but if we have a solid recovery I think it is very significantly related to the conduct of the Federal Reserve over the last three-and-a-half or four years.

Maybe President Bush would have liked it differently, and maybe Dick Darman would have, if it all could have happened earlier, but nonetheless I think you are somewhat responsible so I trust you at least on what you are doing now.

Thank you.

The Chairman. That reminds me a little bit of watching some of that Olympic Skating Competition last night when they throw the bouquets out on the ice. You just threw a nice one to the Chairman.

Senator Domenici. Thank you.

The Chairman. Senator Kerry?

(Laughter.)

Senator Domenici. I remember you were critical of him. You wanted him to loosen up even more.

The Chairman. Well, the other day I think my comments were comments that reflected some understanding as to what the Chairman is trying to do, and I think he has put additional light on that today.

I do not think this Chairman wants to strangle the economy, and I am speaking of Chairman Greenspan. Sometimes you can do that and not intend to, but I think he is trying to be as prudent as he can be.

Senator Kerry?

Chairman Greenspan. Excuse me, Mr. Chairman? Is that--

The Chairman. Can you be liberated now? Can you take your bouquet and go?

(Laughter.)

Chairman Greenspan. Yes.

The Chairman. Yes, you can.

Senator Kerry--Senator Boxer gave you a 5.9.

(Laughter.)

Senator Boxer. A 6.0.

(Laughter.)

The Chairman. Especially on the technical portion of the program.

(Laughter.)

Senator Bond. With the market today, maybe we should have let him out earlier.

The Chairman. Senator Kerry?

Senator Kerry. Mr. Chairman, I am not sure I have time to stay through the whole process here, so I am review the bidding here a little bit, but just speaking as a former prosecutor:

One of my colleagues over here was sort of questioning the duality. I can tell you as a person who has presented evidence to grand juries and who has spent some time putting cases together, that there is nothing worse than having dual tracks, witness confusion, various statements appearing in public, multiple copies of documents moving around.

I would be very surprised if Special Prosecutor Fiske decided to do it. It certainly would not be a judgment that I made thinks public in the middle of an investigation because it inevitably taints somebody's something, and it creates a very hard process for pursuing a track.

What astonishes me here a little bit--and I want to reiterate it--is we have a $150 billion problem here which taxpayers are paying for. They are already angry enough about us wasting their time in duplicitous process, and here we are frankly with very important people in front of us having spent a morning not really examining where that $150 billion went, not talking about it, but dealing instead with politics.

And that is what this really comes down to. It is politics. It is totally unnecessary in the context of the gentleman who has been made Special Prosecutor--a Republican appointed by a Democrat.

Let me just share with colleagues again quickly something about Mr. Fiske. This is an article from The New York Times right after he was appointed:

> "Robert Fiske's reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater affair, his findings could put rumors about Bill and Hillary Clinton's business dealings to rest."
>
> "The choice is one that you simply can't argue

with," said former Treasury Secretary Nicholas Brady, a close friend of former President George Bush, and a college classmate of Mr. Fiske's more than 40 years ago:

> "He is one of those guys who has always conducted himself with integrity."

The article goes on to say that, "Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor. If the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the First Family."

Now if that is not enough, if we do not have the patience to allow him to do his job and sit here and ask relevant questions about $150 billion, we ought to ask what we are doing here.

This is why the taxpayers get so fed up, because all we do is dig into politics. There is a huge distinction between this case and prior cases because we are not looking at a current situation where the President is currently making decisions about current money being spent or current policy.

This is something that happened when he was Governor--if whatever happened happened--and I suggest that this Prosecutor has the ability to get at it.

If he does not, I will join with Senator D'Amato.

I will be one of the first people. I think I have a good reputation here on the basis of BCCI and Noriega and other investigative efforts in pursuing things.

But I think back to the time I was trying to do that, and I did not have any help from the other side of the Aisle. We did not get subpoena power. We did not have the ability to have a full-fledged investigation in this Committee on that.

I sat here with Tim Wirth and we tried again and again to get an extension of the liability. We also tried to get a Special Prosecutor. Most of my colleagues making a lot of noise about this now were opposed to have the Special Prosecutor.

So I just think fair is fair at some point in this business. We all understand the game. We all understand what happens. But it seems to me that to take $150 billion fiasco and relegate it to a second tier for this 194th state-run--

Who was the primary regulator of this institution, originally?

Mr. Hove. Originally it was the Federal Savings & Loan Insurance Corporation, and later OTS.

Senator Kerry. Fine. So it came to the Federal Government secondarily. And, I might add, for two years this case was closed. It was not until six weeks before the election--and we ought to ask some questions about this--that suddenly when Bill Clinton was the nominee for President of the United States that there was a criminal referral to the RTC.

Not until six weeks before the election.

For two years while my friends controlled the elements of regulation, nobody was asking the questions that are being asked here today.

So I am not saying questions should not be asked. I am saying we absolutely ought to get to the bottom of whatever took place. We ought to understand all these institutions, because it is a sorry chapter in American politics.

But that is going to happen with 25 FBI agents, and depositions, and documents being made available, and the taxpayers of this country do not need us jumping all over each other for political purposes avoiding the real issues that they would like us to dig into.

I do not think much more needs to be said beyond that.

The Chairman. Senator Bond.

Mr. Hove. Mr. Chairman, may I make a correction

The Chairman. Yes.

Mr. Hove. I think Senator Kerry asked who was the primary regulator. The primary regulator was the State of Arkansas.

Senator Kerry. That is what I was getting at. The primary regulator was the State.

Mr. Hove. Exactly. And the primary federal regulator was FSLIC, or NOTS.

Senator Kerry. Correct. So the issue of federal nexus here in terms of decision making is only by transfer, not by original jurisdiction. So what we are doing is secondary to the third tier.

The Chairman. Senator Bond.

Senator Bond. Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer.

I recall it was Jerry Brown of California who first raised the question during the 1992 campaign, but we all will be able to benefit from these questions which are along the lines that Senator Kerry raised.

I also have a series of questions for the FDIC and for the RTC which follow up on these other questions.

But in the time remaining, I do want to pursue a couple of items.

When we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were.

Now if the RTC under your direction were requesting records from the First Lady at the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the First Lady?

Mr. Altman. Senator, I do not get involved in any substantive aspects of any PLS case, particularly or including documents that they may seek, so they have never brought that to my attention since I have been in this job and that goes right through to today.

Senator Bond. So you would not expect them to tell you?

Mr. Altman. No, I would not.

Senator Bond. I find that remarkable.

In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some Members of Congress.

Could you furnish to this Committee the latest, most up-to-date inventory, and provide it for the hearing record along with the previous versions? Would you make that available?

Mr. Altman. Well last evening we supplied the 6500 pages of information to Senator D'Amato's office, as we had sometime earlier to Congressman Leach.

Senator Bond. And is that the entire inventory?

Are those all the documents?

What did you--You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at this particular time. It is a new standard for delivery in the package express.

Mr. Altman. Well, I have here a list of the documents.

Senator Bond. Is that the latest version?

Mr. Altman. This is just a list of what the documents are. There are 6500 in total pages. This is a list of the documents we provided.

Senator Bond. If you could make one available for the record, we would like to have it.

Mr. Altman. I would be delighted.

Senator Bond. We would appreciate it.

(COMMITTEE INSERT.)

Senator Bond. Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

Mr. Altman. Last fall. I was advised that the question of a referral to the Justice Department was under consideration at the RTC. And as other members of the RTC staff will attest, I said that normal procedures with no deviations whatsoever should be pursued, including chain of command procedures, in terms of reaching that conclusion.

I might tell you that typically decisions like that are made at the Regional Office level, and it was in this case.

Senator Bond. Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clintons' name should be in the new expanded referral?

Mr. Altman. No.

Senator Bond. You did not know they were asking for the National Office to make a determination?

Mr. Altman. No. I was simply informed that this issue was on the table, and my reaction was--and I had only one conversation about it--that normal procedure should be followed. That is the way we are going to handle this thing from beginning to end.

Senator Bond. How was the White House notified of the referral?

Mr. Altman. They were not notified by the RTC, to the best of my knowledge.

Senator Bond. Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major--this could be a major source of concern?

Mr. Altman. Not to my knowledge.

Senator Bond. Mrs. Ford, do you know if the White House was notified by the RTC?

Ms. Ford. No. We have had no involvement at the Oversight Board whatsoever.

Senator Bond. When was the firm of Madison & Pillsbury put on retainer by the RTC?

Do you know?

For how long, and at what cost?

Mr. Altman. I do not know that. I am aware that that firm has been retained as outside counsel on this matter, but I am not aware of the date on which it was retained nor the retainer arrangements.

Senator Bond. Will they review the potential of suing the various law firms who represented Madison, or the Board of Directors?

Mr. Altman. I do not know the answer to that question.

Senator Bond. We would appreciate know that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that.

(COMMITTEE INSERT.)

Senator Bond. Finally, I am advised that the list you have there is just an inventory of the documents provided to Senator D'Amato. It is not the complete inventory of the documents pertaining to Madison.

If I am mistaken, or in either event we would appreciate receiving a copy of the inventory of the entire documents.

Mr. Altman. Well, Senator, I am not sure I fully understand your question. What we have released amounts to what we have been asked for, less any documents that in our judgment could prejudice the investigation.

I told you earlier that we had had a couple of conversations--I have not had them--I am advised that there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we are trying to adhere to that.

Senator Bond. As I understand it, you have prepared an inventory. I am not asking for the documents themselves, but I understand that you had prepared an inventory and had furnished perhaps Members of the House side or others with the inventory--not the contents of the documents.

Mr. Altman. Well any information I assure you that we have supplied to Congressman Leach or anyone elsewhere in the Congress we are delighted to supply to you or anyone else here that would like them.

Senator Bond. Would that include an inventory, a cataloguing--not the contents but a cataloguing--of the documents in the Madison case?

Mr. Altman. We will supply you with any information to that extent that we can which does not get into areas that we think would prejudice the investigation.

Senator Bond. Thank you, Mr. Chairman.

The Chairman. Senator Boxer?

Senator Boxer. Mr. Chairman, I am still working.

The Chairman. All right. Senator Domenici, you are next in the order.

Senator Domenici. Mr. Altman, you spoke awhile ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel.

Mr. Altman. One substantive contact.

Senator Domenici. Please?

Mr. Altman. One substantive or meaningful contact.

Senator Domenici. Well, I assume we are not arguing there that you had--[redacted]ing you had [redacted] you?

Mr. Altman. [redacted] that if you,

you know, you run into someone in the hall, if you see that thing in the paper this morning, I am not including that.

Senator Domenici. You said you were there to give a heads-up.

What I understand the situation to be on average folks like a couple of them in my State that were bordering up alongside of a statute of limitations becoming a defense, they were presented with a tolling agreement. If they did not sign it, the suit was filed so as to toll the statute.

Is that a rather fair assessment of the way business is done?

Mr. Altman. I think I would have to know the details of the matter, Senator.

Senator Domenici. Well I guess what I am wondering is are we getting the right perspective of why you did this?

Did you go there because you wanted them to know that clearly they might be asked to sign a tolling agreement?

Or, to know that the normal process was that the statute is going to toll and if there is reasonable grounds to suspect something, they might expect a lawsuit?

Why else would you give them a heads-up?

Mr. Altman. The difference between this and a matter like the one you referred to is I had been receiving-

-I had begun to receive a lot of inquiries, including in writing, from Congress as to what procedures the RTC was going to follow.

I wanted to give them the same sense of those procedures that I was giving Members of Congress. I said to them nothing different than I have said to Members of Congress.

Senator Domenici. Well I understand that, but I guess what I am getting at is there must have been a reason for telling them that.

Congress was just saying the statute is going to run, what are you going to do, so you went over there to tell them we are going to apply the same thing we do in any other case?

That is the "heads-up" that you were giving them?

Mr. Altman. That is right.

Senator Domenici. Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules like asking for a tolling agreement, or filing a lawsuit?

Mr. Altman. Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28th, 1994.

The RTC was going to make every effort to make a decision by that date.

It could fundamentally reach only one of two decisions:

That there was the basis for a claim, or that there was not.

If there was a basis for a claim, then we would either seek a tolling agreement to permit more discovery and more preparation, or we would file that claim in court.

Senator Domenici. Well, the passage of the statute of limitations extension eliminates that problem, as you have already indicated.

I guess, Mr. Chairman, I am having a little difficulty with the explanation because one way of looking at it was that it was not a very meaningful or important meeting; that he was just doing this so that he would be able to tell Congress he had told them he is going to treat them the same way as others.

I do not think a man--I know you fairly well. I do not think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they are going to be treated the same way as other people.

Mr. Altman. Senator, I did not know whether they knew of such procedures which, as I say, I was then communicating to Members of Congress. It just seemed to me a little odd to explain to a Member of Congress that we are going to follow X,Y,Z procedures and not have them ever be made aware of what those were.

Senator Domenici. Well I want to close on this remark by thanking you, Mr. Chairman, for holding these hearings. I hope the public understands the Republican response to Senator Kerry that it is almost an insult to accuse us of not being concerned about oversight, and that somehow or other the other side is more interested in how the RTC turned out.

Frankly, that just borders on being a joke.

At this hearing we have all your statements. We are going to read them. So we are going to know what you were going to say. If you sent it to us yesterday, our staff has probably read it already and they will brief us. So we are going to know.

My last observation would be that it is inconceivable to me, Mr. Altman, that you would really be concerned that people involved in the investigation, whomever they are, whether it be people in Arkansas, whether it be confidants of the President, or whomever, that they would not know that the statute of limitations was going to toll, and that that presented a situation that you had to advise somebody on.

I just do not think anybody involved in this would not have known that.

Mr. Altman. Well Senator I also--I would agree with you. I cannot say for sure. I cannot say what was in their minds. I doubt very much that they did not know about the statute of limitations.

Senator Domenici. Right.

Mr. Altman. What I was saying was not that. What I was saying I did not know if they knew, and frankly my impression is, as a result of that meeting, they had not previously known what procedures the RTC would be following.

By that I mean that you have to choose between--you have to reach a conclusion as to whether there is a claim or there is not, and then what you have to do if you reach a conclusion that there is.

Senator Domenici. Thank you, very much.

The Chairman. Thank you.

Senator Faircloth?

Senator Faircloth. Thank you, Mr. Chairman.

I will echo Senator Domenici. You have done a superb job of conducting, and I will be very brief.

My questions are to Mr. Hove.

Mr. Hove, we keep coming back--you said the FSLIC issued this report, who had long been out of business and did the investigation on Mrs. Clinton and her relationship?

Mr. Hove. No, sir, I did not say FSLIC. I said that the agency that handled the closing of First American was FSLIC, and that occurred before FDIC had any involvement in it.

Senator Faircloth. All right. But who did the investigation--I assume there was one done--to determine that Mrs. Clinton had no involvement whatsoever that was worthy of looking at?

Mr. Hove. We did not do an investigation. We did not do a review because we do not have all the records. The records are the old FSLIC records that are not in one central repository.

All we did was review the records that we had available at the FDIC. The records that we had at the FDIC only indicated that Mrs. Clinton's involvement from the records that we could review was the two hours that she spent filing the amended complaint for her partner Vince Foster.

Senator Faircloth. So what you are saying really is that you did a very incomplete and surface investigation--

Mr. Hove. We did not--we simply looked at the records that we had, and we did not make an investigation any further than the records that we had available to us at the FDIC.

Senator Faircloth. Well, I would say that Mr.

Whitney issuing such a clearance for Mrs. Clinton in the name of the FDIC does not lend a lot of credibility to an FDIC investigation when he makes his statements, and when you did not really have the records to make an investigation from what you are telling me.

Mr. Hove. What we were doing was correcting the information that was erroneous in The Chicago Tribune report, because The Chicago Tribune said that it was an FDIC case and we said it was not an FDIC case.

We also said that from our records this was the only involvement that we could have.

Senator Faircloth. Well do you not think it would be a good idea to hunt up the old FSLIC records and see whether they might lead you farther?

I have a question, and then I will be done.

The original suit was $3.3 million. They settled it for 6 cents on the dollar, or $200,000.

What I want to know is how much was Mrs. Clinton paid, or the Rose Law Firm.

Mr. Hove. I cannot tell you. I do not know.

Senator Faircloth. Can you find out?

Mr. Hove. We can try.

Senator Faircloth. I would like for you to let me know as quickly as possible how much the Rose Law Firm was paid, and also their work records to indicate who did the work to earn the money.

(COMMITTEE INSERT.)

Senator Faircloth. You say she worked two hours--

Mr. Hove. I did not say that. I said the only thing that we can ascertain from the records we have was that she worked two hours.

Let me remind you, Senator, that these records are dispersed from wherever FSLIC had the records. We did not take possession of those records when FSLIC was closed down.

Senator Faircloth. Are those records still available?

Mr. Hove. I do not know.

Senator Faircloth. If she settled the lawsuit, the amount of hours she worked--it is just impossible for me to believe she settled the lawsuit against Lassiter, she signed the amended return which was the settlement, the amended complaint which was the settlement against Lassiter at a very favorable rate.

Then, we turn around and find that Lassiter is the person whose power of attorney is back in the White House working.

Mr. Hove. Senator, the amended complaint reduced the complaint from $3.3 million to $1.3 million. The settlement was some six months later. I do not know whether Mrs. Clinton had any involvement after that period of time in which she amended the complaint from $3.3 down to $1.3 million.

Senator Faircloth. Well, we have no idea whether Mrs. Clinton made the final settlement totally.

Mr. Hove. I have no idea from our records and what we have seen.

Senator Faircloth. This two-hour thing, she could have worked 200 hours.

Mr. Hove. What I have told you is what we have available at the FDIC.

Senator Faircloth. She could have worked 200 hours on it.

Mr. Hove. And all I am telling you is that the records that we have indicated she worked two hours. The only records we have is that she billed FSLIC for only those two hours.

Senator Faircloth. Billed who?

Mr. Hove. F-S-L-I-C.

Senator Faircloth. How about getting the total records from FSLIC and finding out how much the total bill was, and whose time was billed?

I would like to see them.

Thank you.

(COMMITTEE INSERT.)

The Chairman. Senator D'Amato?

Senator D'Amato. You know, Mr. Hove, I have difficulty if you really have trouble figuring this out. When a claim is lodged for $3 million, and then it is reduced and you say, well, you know, the law firm or this partner--in this case Mrs. Clinton--only billed for two hours, but the nature of the work was such as to reduce that lawsuit and the potential liability of Mr. Lassiter who has a definite relationship with the Clintons.

I mean, are we really to believe you do not understand that?

Now do not give me this two-hour stuff. I mean, the fact is that that claim was reduced. The potential of the claim was $3 million. It was reduced to a million some odd, and therefore a settlement of $200,000 is much more reasonable in appearance when the suit is only asking for $1.3 million as opposed to $3 million.

Now does that not make sense?

Do you see why a Senator or anyone else would make an inquiry and say: Look, what is the situation here?

Are you telling us there is no conflict there?

Mr. Hove. But, Senator, you are asking FDIC, and FDIC does not have any involvement in that suit at that time.

Senator D'Amato. I am not suggesting that. What

I am suggesting to you is that in a period of time it came to you for review, if you look at this--do not keep telling us that FDIC did not have anything at that time.

We are not suggesting that you did anything wrong.

We are suggesting you take a look at the facts. Take a look at the record. You can be a school boy and you will come to an inescapable conclusion that someone was retained to bring the lawsuit that had a relationship with the person they brought the suit to.

And as a matter of fact, whether it was two hours or one hour, their determination was made to reduce the claim that might be the potential liability from $3 million down to $1 million, and eventually settle for $200,000.

Now we do not know who was responsible for the settlement?

But the fact of the matter is that the partner who reduced and amended that complaint is Mrs. Clinton. That is obvious. I am not going to spend my time going back and forth with you.

I am going to tell you something else, though. When we talk about the potential for conflict before as it related to the Madison Guaranty and Mr. Hubbell, I am going to refer you to a letter of June 8, 1989.

Mr. Hove, you stated that since the Rose Law

Firm, which I first brought this up to you, was suing Frost, it was not relevant that Web Hubbell's brother-in-law and father-in-law was suing Madison.

Now if you take a look at that letter--and I am going to suggest to you that you are wrong, and that is why you had better have the IG look at this--June 8, 1989, and it is written to April Breslaw, Attorney, Federal Deposit Insurance Corporation--I am reading part of it:

"Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider who was able to obtain a judgment against Madison of approximately $447,000."

Skipping to the next sentence and going down:

"Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. After appeal, a new trial will be sought. Whether in state or federal court, at a minimum."

It goes on to state:

"The state judgment will be attacked under various special FDIC defenses on its general inappropriateness. Ms. Styrohorn has informed me that the information contained in the audit files could be damaging to our case, especially if a new trial is granted."

It goes on, and it concludes:

"I offer this information because there appears to be a conflict in representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interest in the Seth Ward matter."

Now, look, I am not suggesting that at that time that you knew of it. Here it is. That is why, if you do not refer something to the IG to clarify whether or not there was a conflict, you cannot be doing the right thing.

For you to maintain, well, you were not there at the time, it was FSLIC? Well, maybe the rules were a little vague.

I mean, for God's sake, you had lowly auditors saying, wake up, fellows!

You had an auditor in another letter saying: It is impossible to think that he is not going to tell his in-laws what is going on.

So that is the kind of thing that brings about maybe the stamping that one of my colleagues alluded to.

Mr. Chairman, not withstanding--first of all I am going to ask that we be permitted to submit some documents for the record that have been referred to, so we can keep an orderly proceeding.

The Chairman. Without objection, so ordered.

(COMMITTEE INSERT.)

Senator D'Amato. Secondly, I want to say before I conclude that you could not have been fairer in making available this opportunity and according the Members the opportunity to make their presentations and to ask their questions under very difficult circumstances.

So I want you to know that, and I think I speak for all the Republicans on the Committee in relationship to the manner in which you have conducted this proceeding.

It is not easy for you, and I just want to commend you for your impartiality.

Let me conclude again, I think what we are interested in this is setting, as I think Senator Domenici said, the process move forward without there being interference and without there being a question as to what documents have been made available to the appropriate people, and what has been taken.

Some of these things have no--I see Mr. Altman. He is placed in a very, very difficult position. I have said that publicly, as well. It is a very, very difficult situation and certainly it leads to us raising the kinds of questions we have.

But I tell you that this Senator wants to see what was supposed to be done, what was done, and that what should be done at the present level is carried out in a manner in which everyone can say the right thing was done.

Then, let the chips fall where they may.

So, Mr. Chairman, again thank you for providing us an opportunity to put forth our concerns. Hopefully this will move us a step closer to resolving this matter.

Thank you.

The Chairman. Thank you, very much. We will give you some questions for the record, and we would ask you to respond to them. The Committee stands in recess.

(COMMITTEE INSERT.)

Senator Boxer. Mr. Chairman, I want to make a comment.

The Chairman. Oh, I beg your pardon, Senator Boxer.

Senator Boxer. I was really waiting to hear what Senator D'Amato had to say. If you do not mind--

The Chairman. Excuse me.

Senator Boxer. I just want to make sure I understand where this is all going.

So, Mr. Hove, you have agreed that you are going to take a look at--you are going to ask the IG to take a look at this potential conflict of interest? Is that correct?

Mr. Hove. I have committed to make the IG, or request the IG make an investigation of both the FDIC's involvement with the Rose Law Firm and their suit with Frost.

I have also made a commitment that we will have the IG investigate the issue of First American's failure when that happened back in 1985 or 1986, or whenever that was.

(COMMITTEE INSERT.)

Senator Boxer. And Mr. Altman has agreed to have the IG take a look at the largest S&L failures, the six that I noted in New York, Texas, California, and other places, and do the same thing. So we have that coming.

Mr. Altman. That is right.

(COMMITTEE INSERT.)

Senator Boxer. I think, Mr. Chairman, I guess we have made a lot of noise here today. I do not think that we have raised any issue that will not be raised by this very independent counsel.

The fact that our colleagues have raised them again I am sure will lead the independent counsel to look even harder at these issues. But to me, what is important for the American people to know is that after the biggest financial disaster in history we are getting on our feet.

We do not see these S&Ls going under.

We have in the Senate extended the statute of limitations I am happy to say. I voted to do it twice. Some others voted to do it once. I am glad it got done.

So we can look at many more of these issues that are unresolved, because we want to make sure we go after the bad people.

I am very convinced that as we have learned today through the Chairman, by looking at the scope that this independent counsel has in front of him, that every single question that was raised here is going to be answered.

Frankly, I think the American people know that, Mr. Chairman. That is why when the polls are taken day after day, after more and more stamping of feet, they still say, yes, I know that is being looked at, and that is okay. They are more interested in the bread and butter of their lives, getting jobs which they are getting more of under this Administration, and seeing the deficit go down which they are getting under this Administration, seeing interest rates remain relatively low which they are seeing because of deficit reduction, and they are seeing opportunity again.

Now there are those that try to distract from this. That is a political game. But I think there are enough of us here today that called it in that fashion, and I thank you, Mr. Chairman, for your great patience today.

The Chairman. Thank you, Senator Boxer.

Thank the witnesses.

The Committee stands in recess.

(Whereupon, at 2:30 p.m., the Committee was recessed, subject to the call of the Chair.)

Inventory

D'Amato:

- Facsimile Transmission: (4/7/94) Peter E. Knight to Doug Nappi-**Madison Guaranty Savings & Loan: Chronology of Significant Events**
- Memo: (4/4/94) Peter E. Knight to Doug Nappi-**Madison Guaranty Documents**
- Memo: (3/16/94) Peter E. Knight to Doug Nappi-**Madison Guaranty Documents**
- Letter: (3/11/94) John E. Ryan to Alfonse M. D'Amato
- OGR Correspondence Referral: (Doc. Date 3/6/94) Alfonse M. D'Amato-**Questions regarding "heads-up" briefings Roger Altman abd. Jean Hanson gave White House Officials. Was Ms. Hanson at February 24th Hearing? Why didn't she brief committee members regarding meetings?**
- Memo: (2/23/94) Casey Carter through Peter E. Knight to Doug Nappi-**Ethics Material**
- Memo: (2/23/94) Peter E. Knight to Doug Nappi-**Outside Counsel Conflicts of Interest**
- Letter: (2/23/94) John E. Ryan to Alfonse M. D'Amato
- Letter: (2/23/94) Peter E. Knight to Alfonse M. D'Amato
- Letter: (2/23/94) John E. Ryan to Alfonse M. D'Amato
- Letter: (2/18/94) Peter E. Knight to Alfonse M. D'Amato
- Letter: (2/1/94) Roger C. Altman to Alfonse M. D'Amato

Leach:

- Letter: (5/12/94) Jonathan L. Fiechter, Acting Director-OTS to James A. Leach
- Letter: (5/11/94) James A. Leach to James E. Barker
- Summons, Complaint and Emergency Motion For Expedited Briefing Schedule To Resolve Summary Judgment Motion (5/11/94) **In Re: Leach v. RTC and OTS**
- Letter: (5/2/94) James E. Barker, Acting Deputy General Counsel to James A. Leach-**Re: Freedom of Information Act Appeal No. RTC-94-A014**
- Attachment: (5/2/94) to James E. Barker Letter of 5/2/94 to James A. Leach- **Madison Guaranty Document Index, Institutional Case Listing & Participations Purchased**
- OGR Correspondence Referral: (Doc. Date 4/11/94) James A. Leach **FOIA Re: Appeal of RTC [Denial] of Request for [Documents] Re [Madison Guaranty] S&L, McCrory, AK (Resolved). [Reports], [Memos], Minutes [Telephonic] Reports, [E-Mail], [Contractor], Agreements. [Important]**
- Memo: (4/4/94) Peter E. Knight to Joe Seidel-**Madison Guaranty Documents**
- OGR Correspondence Referral: (Doc. date 3/31/94) James A. Leach **Rebuttal of [Ryan] & [Kulka] Letter Re: [PLS] and [Madison] Concern Over Reorganization & Reduction in Independence of Regional Investigative Units**

- Letter: (3/30/94) John E. Ryan and Ellen B. Kulka to James A. Leach
- Letter: (3/30/94) John E. Ryan to James A. Leach
- Statement: (3/24/94) James A. Leach before the House of Representatives
- Letter: (3/24/94) John E. Ryan to James A. Leach
- OGR Correspondence Referral: (Doc. date 3/23/94) James A. Leach **Access to all RTC documents related to Madison Guaranty S&LA, McCrory, AR (resolved), and Whitewater, to prepare for hearings. E-Mails, Meetings, Reports, Memos (Names), Field**
- Facsimile Transmission: (3/23/94) James A. Leach to John E. Ryan **Letter from James A. Leach to John E. Ryan**
- Letter: (3/22/94) Stephen E. Potts, Director, Office of Government Ethics to James A. Leach
- Letter: (3/21/94) John E. Ryan to James A. Leach
- Facsimile Transmission: James A. Leach to Roger C. Altman
- Memo: (3/16/94) Peter E. Knight to Joe Seidel-**Madison Guaranty Documents**
- Letter: John E. Ryan to James A. Leach
- Letter: James A. Leach to John E. Ryan
- Letter: Various to Henry B. Gonzalez
- Memo: (3/10/94) Peter E. Knight to Joe Seidel **PLS Information Request**
- Letter: (3/4/94) John E. Ryan to James A. Leach
- OGR Correspondence Referral: (Doc. Date 3/1/94) James A. Leach **Meeting with White House Officials on subject of Madison Guaranty. Altman should resign from all responsibilities at the RTC-is only ethical option in order [Important]**
- OGR Correspondence Referral: (Doc. Date 3/1/94) **Further correspondence regarding interim CEO, Roger Altman, and his recusal of Madison Guaranty S&LA, McCrory, AR (resolved). Has CEO's conduct violated Federal ethics guidelines? [Important]**
- Facscimile Transmittal: (3/1/94) James A. Leach to Art Kusinski **Letter from James A. Leach to Messrs & Madam Bernard Nussbaum, Stephen Potts, Jean Hanson, Art Kusinski**
- Letter: (2/23/94) Jean E. Hanson to James A. Leach
- Letter: (2/7/94) John E. Ryan to James A. Leach
- Letter: (2/1/94) Roger C. Altman to James A. Leach
- Letter: (12/22/93) Roger C. Altman to James A. Leach

5/19/94
1:00 pm

Gonzalez:

- Letter: (3/21/94) Henry B. Gonzalez to Thomas S. Foley
- Letter: (3/21/94) Henry B. Gonzalez to James A. Leach
- OGR Correspondence Referral: (Doc. Date 3/14/94) Henry B. Gonzalez **Semiannual March 24 TDPOB Hearings. Any matters not pertinent to section 21a(K)(6) of the FHLB Act, such as Madison Guaranty are not to be answered at hearing. Focus on funding, transition, reform [Important]**
- Letter: (3/10/94) Henry B. Gonzalez to John E. Ryan
- Letter: (3/9/94) Henry B. Gonzalez to James A. Leach
- OGR Correspondence Referral: (Doc. Date 3/3/94) Henry B. Gonzalez **Hearing March 24, 1994 Re [Semiannual] Appearance of Thrift Depositor Protection Oversight Board. Goldman Sachs Contract Investigation, [Homefed], Transition, Prosecution, Crime [Report] [Important]**

Other Members:

- Memorandum: (5/18/94) Peter E. Knight to Kish Rajan (Sen. Barbara Boxer)- **Re: Questions regarding RTC involvement in the Madison Guaranty Matter**
- Memorandum: (5/5/94) Kish Rajan, LA to Sen. Barbara Boxer to Casey Carter- **Re: Questions regarding RTC involvement in the Madison Guaranty Matter**
- Letter: (5/12/94) John E. Ryan to Donald W. Riegle, Jr.
- Facsimile Transmission & Memorandum: (5/3/94) **Re: Questions regarding RTC involvement in the Madison Guaranty Matter**
- Letter: (5/2/94) Peter E. Knight to Kelly D. Johnston, Senate Republican Policy Committee
- OGR Correspondence Referral: (Doc. Date 4/20/94) Chairman Don Nickles **Johnston, Kelly D., [Republican] [Policy] [Committee], United States Senate, Requests A Set Of [Documents] The RTC Recently Released Re [Madison] [Guaranty] S&LA, McCrory, AK (Resolved and [Whitewater]**
- Memo: (4/4/94) Peter E. Knight to Tim Mitchell **Madison Guaranty Documents**
- Memo: (3/30/94) Casey Carter to John Linko **Madison Guaranty S&L Documents**
- Facsimile Transmittal: (3/29/94) John L. vonSeggern to Casey Carter **Letter From Jonathan L. Fiechter, Acting Director, OTS to James A. Leach**
- Memo: (3/16/94) Peter E. Knight to Tim Mitchell-**Madison Guaranty Documents**
- Letter: (3/7/94) Donald W. Riegle, Jr. to Roger C. Altman
- Memo: (3/7/94) Peter Knight to Maggie Fisher-**Information Request on Rose Law Firm**
- OGR Correspondence Referral: (Doc. Date 3/4/94) Lauch Faircloth **Fee bill copies for the Rose Law Firm regarding Madison Guaranty S&LA, McCrory, AR (resolved), specifically, those of Webster Hubbell.**

5/19/94
1:00 pm

- OGR Correspondence Referral: (Doc. Date 2/7/94) Hon. David Pryor **Question from the Senator. Has the RTC filed a civil suit against institutions of individuals involved on the attached list? Madison, Horizon, Alamo, Colonial etc. [Important] [RLS]**
- Letter: (2/1/94) Roger C. Altman to Robert J. Dole
- Letter: (12/29/94) William M. Dudley to Connie Mack
- Letter: (11/9/93) Peter E. Knight to Dale Bumpers
- Letter: (11/9/93) Peter E. Knight to David Pryor

Other Inquiries:

- Letter: (2/2/94) Dennis M. Cavinaw to Ray Thorton
- Letter: (1/7/94) Peter E. Knight to Olympia J. Snowe
- Letter: (11/16/93) Dennis M. Cavinaw to William S. Cohen
- Letter: (11/3/93) Dennis M. Cavinaw to George J. Mitchell
- Letter: (11/3/92) Dennis M. Cavinaw to David Pryor
- Letter: (5/13/92) David Pryor to Randall McFarlane
- Letter: (5/27/92) Dennis M. Cavinaw to Christopher J. Dodd
- Letter: (4/8/91) Randall McFarlane to David Pryor

Other Agencies:

- Fax: (3/1/94) John L. von Seggern to Peter E. Knight
- Letter: (3/17/94) Jonathan L. Fiechter to Donald W. Riegle, Jr.
- Letter: (3/15/94) Andrew C. Hove to Lauch Faircloth
- Fax: (3/11/94) John L. von Seggern to Peter E. Knight
- Letter: (3/10/94) James A. Leach to Robert B. Fiske, Jr.
- Letter: (2/8/94) Andrew C. Hove to Alfonse M. D'Amato
- Letter: (2/8/94) Jonathan L. Fiechter to James A. Leach
- Letter: (2/3/94) Robert B. Fiske, Jr. to John E. Ryan
- Letter: (1/28/94) Various to Donald W. Riegle, Jr.
- Letter: (1/25/94) Various to Henry B. Gonzalez
- Letter: (12/23/93) Richard C. Stiener to Donna Cunninghame
- Letter: (1/23/94) Carl F. Gamble to G. Allen Carver, Jr.- **FOIA Requests, Madison Guaranty Savings and Loan**
- Letter: (1/4/94) G. Allen Carver, Jr. to Carl F. Gamble
- Letter: (1/4/94) Marshall R. Williams to John C. Binkley and Philip J. Lindenmuth
- Letter: (12/22/93) Jonathan L. Fiechter to James A. Leach
- Letter: (12/22/93) Andrew C. Hove to James A. Leach
- Letter: (12/17/93) Marshall R. Williams to John C. Binkley and Philip J. Lindenmuth

5/19/94
1:00 pm

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Spooled by:         Peter E. Knight@OGR@RTCDC
Title:              (input)
Job Number:         569
Total Size:         3028
Copies:             001
Time Spooled:       Thu Jul 14 13:12:23 1994
Time Printed:       Thu Jul 14 13:12:55 1994
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"review" of Rose Law firm for possible conflicts

Background:

Senator D'amato has requested "a copy of any review that the RTC prepared, or had prepared, pertaining to potential conflicts-of-interest that may have existed in connection with the Rose Law Firm and Madison Guaranty"

Talking Points:

On February 23, the RTC provided a document to Senator D'Amato that was prepared by the Office of Contractor Oversight and Surveillance for use by the FDIC/RTC Outside\Conflicts Committee on February 8.

The RTC staff document was an incomplete review in that it did not attempt to duplicate work done by the FDIC in its investigation.

The RTC staff conducting the review did not have all the facts gathered by the FDIC.

The RTC is comfortable with the conclusions reached by the FDIC in its report issued on February 17, 1994.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

March 14, 1994

Joan:- For your information.
Via.

The Honorable Lloyd Bentsen
Secretary of the Treasury
Chairman, Thrift Depositor
Protection Oversight Board
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Secretary:

You have previously been invited by letter dated March 3, 1994 to appear and testify before the Committee on Banking, Finance and Urban Affairs for the purpose of the semiannual appearance of the Thrift Depositor Protection Oversight Board. That letter specifies in detail the matters to which you should direct your testimony. I expect that Republican members of the Committee may use the opportunity of the Oversight Board hearing to pursue their stated interest in extraneous matters, including Madison Guaranty Savings and Loan. Any questions regarding Madison Guaranty Savings and Loans, matters that are the subject of pending investigations by Special Counsel Fiske or other law enforcement authorities, or other extraneous matters not specifically set forth in section 21A(k)(6) of the Federal Home Loan Bank Act or the March 3, 1994 invitation will not be considered pertinent at the hearing and need not be answered by you.

I was the primary sponsor of the provision to require the Oversight Board to appear on a semiannual basis so that the Committee could oversee its activities. The recent appropriation of funds to the RTC, the management reforms, and FDIC-RTC transition measures required under Public Law 103-24 clearly require the complete and full attention of the Committee in order to have a successful Oversight Board hearing. I intend to keep the hearing so focused.

I look forward to your March 24, 1994 appearance.

Sincerely,

Henry

Henry B. Gonzalez
Chairman

HENRY B. GONZALEZ, TEXAS, CHAIRMAN

STEPHEN L. NEAL, NORTH CAROLINA
JOHN J. LaFALCE, NEW YORK
BRUCE F. VENTO, MINNESOTA
CHARLES E. SCHUMER, NEW YORK
BARNEY FRANK, MASSACHUSETTS
PAUL E. KANJORSKI, PENNSYLVANIA
JOSEPH P. KENNEDY II, MASSACHUSETTS
FLOYD H. FLAKE, NEW YORK
KWEISI MFUME, MARYLAND
MAXINE WATERS, CALIFORNIA
LARRY LaROCCO, IDAHO
BILL ORTON, UTAH
JIM BACCHUS, FLORIDA
HERBERT C. KLEIN, NEW JERSEY
CAROLYN B. MALONEY, NEW YORK
PETER DEUTSCH, FLORIDA
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BOBBY L. RUSH, ILLINOIS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
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ELIZABETH FURSE, OREGON
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MELVIN WATT, NORTH CAROLINA
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ERIC FINGERHUT, OHIO

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DOUG BEREUTER, NEBRASKA
THOMAS RIDGE, PENNSYLVANIA
TOBY ROTH, WISCONSIN
ALFRED A. McCANDLESS, CALIFORNIA
RICHARD H. BAKER, LOUISIANA
JIM NUSSLE, IOWA
CRAIG THOMAS, WYOMING
SAM JOHNSON, TEXAS
DEBORAH PRYCE, OHIO
JOHN LINDER, GEORGIA
JOE KNOLLENBERG, MICHIGAN
RICK LAZIO, NEW YORK
ROD GRAMS, MINNESOTA
SPENCER BACHUS III, ALABAMA
MIKE HUFFINGTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER KING, NEW YORK

BERNARD SANDERS, VERMONT

(202) 226-4247

March 14, 1994

The Honorable Roger Altman
Chief Executive Officer
Resolution Trust Corporation
Member, Thrift Depositor Protection Oversight Board
801 17th Street, N.W.
Washington, D.C. 20434

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Henry Gonzalez

Henry B. Gonzalez
Chairman

3-[illegible]-4

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

March 16, 1994

Mr. Jack Ryan
Deputy Chief Executive Officer
Resolution Trust Company
801 17th Street NW
Washington, D.C. 20434

Dear Jack:

As you know, I recused myself form the Madison Guaranty matter on February 24, 1994.

There will be an RTC Oversight Hearing before the House Banking Committee on March 24. Given my recusal, you (or whomever you designate) should be prepared to handle any questions which may arise relative to the RTC's involvement in Madison Guaranty.

Thanks.

Sincerely,

Roger C. Altman

CC: ELLEN KULKA

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
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March 14, 1994

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Vic.

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Henry Gonzalez

Henry B. Gonzalez
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Thanks.

Sincerely,

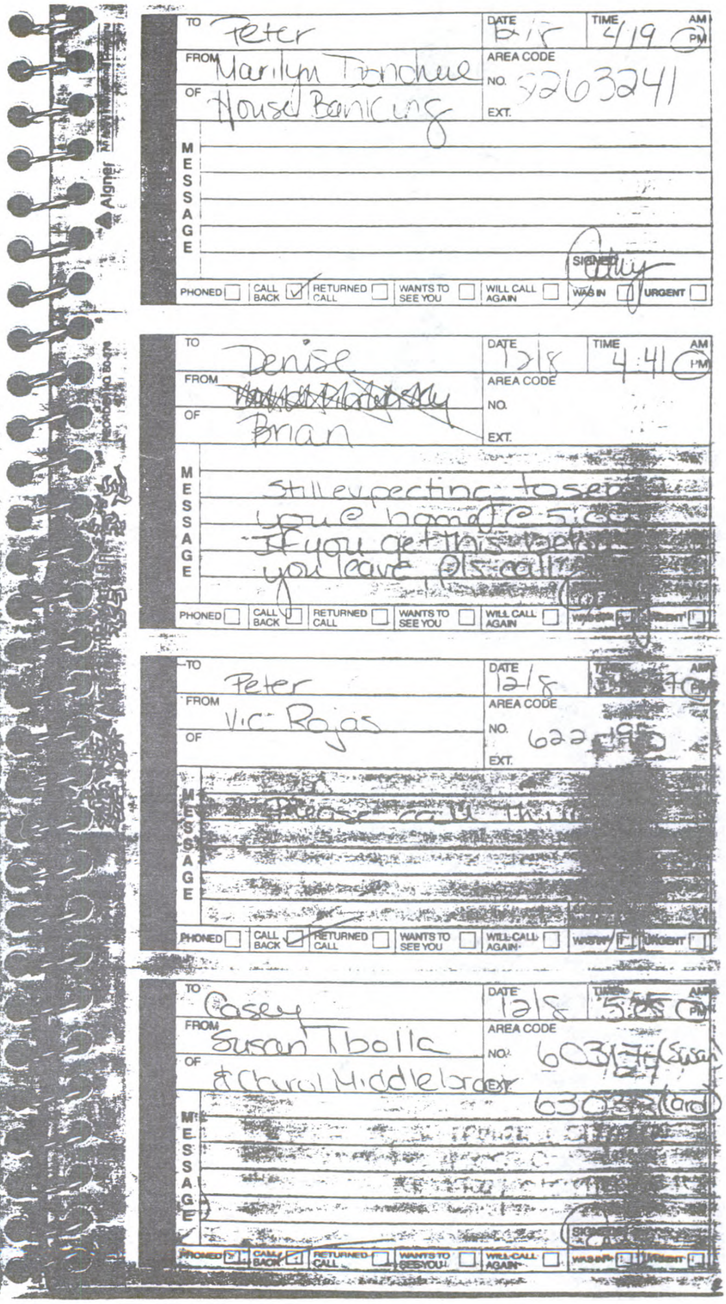
Roger C. Altman

CC: ELLEN KULKA

To: Casey Carter@OGR@RTCDC
Cc:
Bcc:
From: Peter E. Knight@OGR@RTCDC
Subject: calendar--Madison
Date: Thursday, July 14, 1994 17:47:14 EDT
Attach:
Certify: N
Forwarded by:

Pursuant to the request of the Senate Banking Committee for Madison-related documents and related calendars I have the following from my "Desktop Accessories Appointment Scheduler". I cannot print out the computer-based calendar (unlike Timetalk), although I will pursue whether or not I can with the Helpdesk tomorrow.

12/23/93	10:30	"Tony Cole"
1/4/94	9:30	"call Carl Gamble"
1/5/94	10:00	"Binkley-Collishaw-phil"
1/7/94	9:00	"GAO"
1/20/94	11:00	"Ellen Kulka-Madison"
1/25/94	4:00	"D'Amato staff"
2/9/94	3:30	"working group"
4/28/94	12:00	"Rojas"

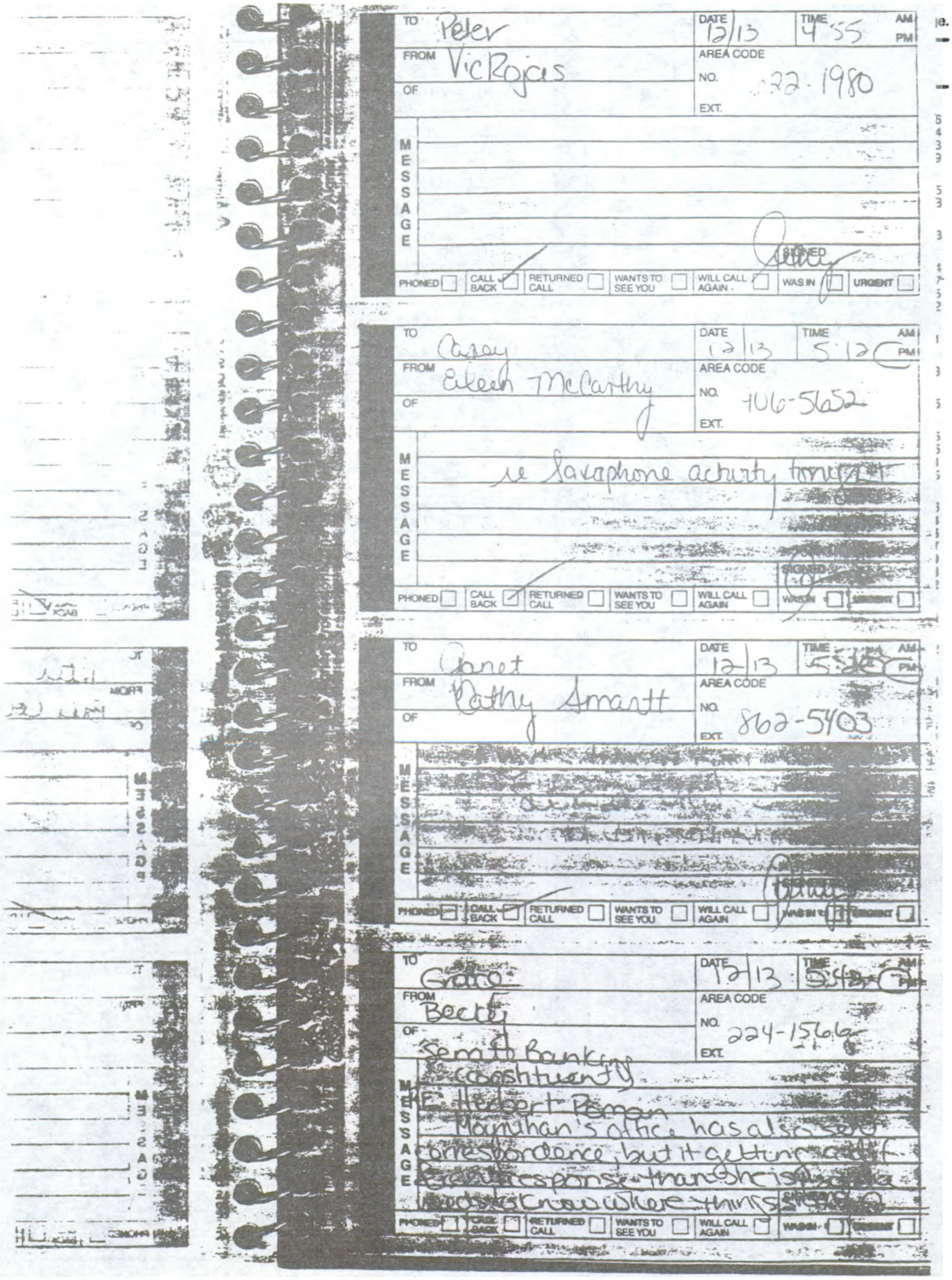


TO Peter
DATE 12/8
TIME 4/19 AM [✓ PM]
FROM Marilyn Donahue
OF House Banking
AREA CODE
NO. 2263241
EXT.
MESSAGE
SIGNED Cathy
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Denise
DATE 12/8
TIME 4:41 AM [✓ PM]
FROM [illegible]
OF Brian
AREA CODE
NO.
EXT.
MESSAGE Still expecting to see you @ home @ 5:00 If you get this before you leave, pls call [illegible]
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 12/8
TIME [illegible] AM [✓ PM]
FROM Vic Rojas
OF
AREA CODE
NO. 622-[illegible]
EXT.
MESSAGE Please call [illegible]
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Casey
DATE 12/8
TIME 5:05 AM [✓ PM]
FROM Susan Tibollo
OF & Charol Middlebrook
AREA CODE
NO. 603-[illegible]74 (Susan)
EXT. 6303[illegible] (Carol)
MESSAGE [illegible]
SIGNED
PHONED ☑ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

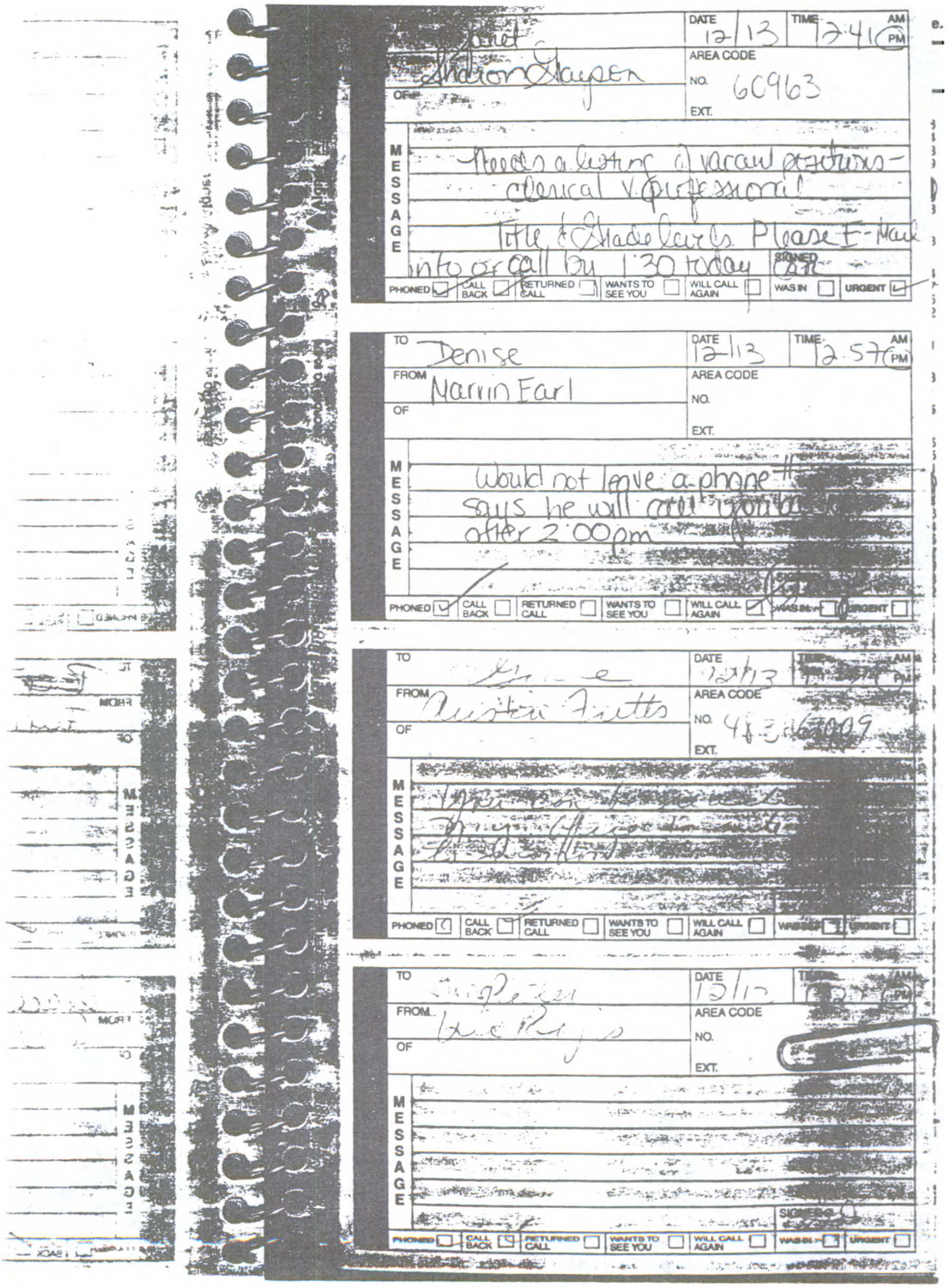


TO Peter
DATE 12/13
TIME 4:55 AM PM
FROM Vic Rojas
OF
AREA CODE
NO. 22-1980
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Casey
DATE 12/13
TIME 5:12 AM [✓ PM]
FROM Eileen McCarthy
OF
AREA CODE
NO. 406-5652
EXT.
MESSAGE re Saxaphone activity tonight
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Janet
DATE 12/13
TIME [illegible] AM [✓ PM]
FROM Cathy Amarett
OF
AREA CODE
NO. 862-5403
EXT.
MESSAGE [illegible]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Grace
DATE 12/13
TIME 5:48 AM [✓ PM]
FROM Becky
OF Senate Banking constituent
AREA CODE
NO. 224-1566
EXT.
MESSAGE RE: Herbert Roman
Moynihan's office has also sent correspondence, but it getting a [illegible] response than she is [illegible] needs to know where things stand.
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

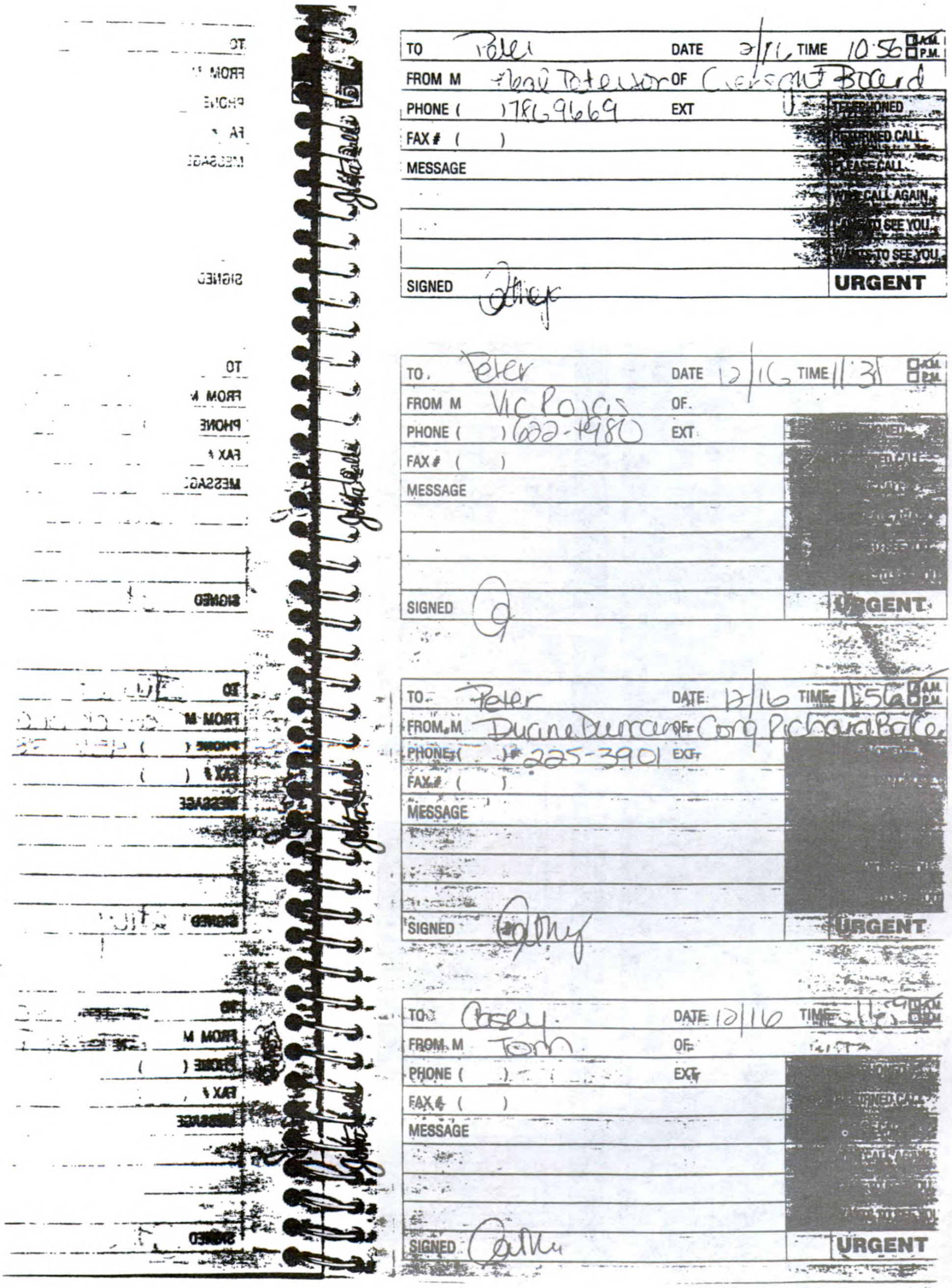


TO Janet
FROM Sharon Hagsen
OF
DATE 12/13 TIME 12:41 AM [✓ PM]
AREA CODE
NO. 60963
EXT.
MESSAGE Needs a listing of vacant positions - clerical & professional Title & Grade levels. Please E-Mail info or call by 1:30 today
SIGNED Cam
PHONED ☑ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☑

TO Denise
FROM Marvin Earl
OF
DATE 12/13 TIME 12:57 AM [✓ PM]
AREA CODE
NO.
EXT.
MESSAGE Would not leave a phone # says he will call you back after 2:00pm
SIGNED [illegible]
PHONED ☑ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☑ WAS IN ☐ URGENT ☐

TO [illegible]
FROM Austin Fritts
OF
DATE 12/13 TIME [illegible] AM PM
AREA CODE
NO. 483-6009
EXT.
MESSAGE [illegible]
PHONED ☑ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO [illegible]
FROM [illegible]
OF
DATE 12/13 TIME [illegible] AM PM
AREA CODE
NO. [illegible]
EXT.
MESSAGE
SIGNED [illegible]
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐



TO Peter DATE 2/16 TIME 10:56 ☐ A.M. ☐ P.M.
FROM M Neal Peterson OF Crescent Board
PHONE ( ) 786-9669 EXT
FAX # ( )
MESSAGE
[redacted]
SIGNED
URGENT

TO Peter DATE 12/16 TIME 11:35 ☐ A.M. ☐ P.M.
FROM M Vic Rojas OF
PHONE ( ) 622-4980 EXT
FAX # ( )
MESSAGE
[redacted]
SIGNED
URGENT

TO Peter DATE 12/16 TIME 11:56 ☒ A.M. ☐ P.M.
FROM M Duane Duncan OF Cong Richard Baker
PHONE ( ) 225-3901 EXT
FAX # ( )
MESSAGE
[redacted]
SIGNED
URGENT

TO Casey DATE 10/16 TIME 11:59 ☐ A.M. ☐ P.M.
FROM M Tom OF
PHONE ( ) EXT
FAX # ( )
MESSAGE
[redacted]
SIGNED
URGENT

TO Grace DATE [illegible] TIME 5:30 ☐ A.M. ☑ P.M.
FROM M Russ Davis OF
PHONE ( ) 483-6009 EXT
FAX # ( )
MESSAGE
SIGNED Cathy

☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
URGENT

TO ~~Carol~~ Casey DATE 12/17 TIME 9:02 ☑ A.M. ☐ P.M.
FROM M Peggy Kaise OF Cong. [illegible]
PHONE (509 522-1800 EXT
FAX # ( )
MESSAGE
SIGNED Ca

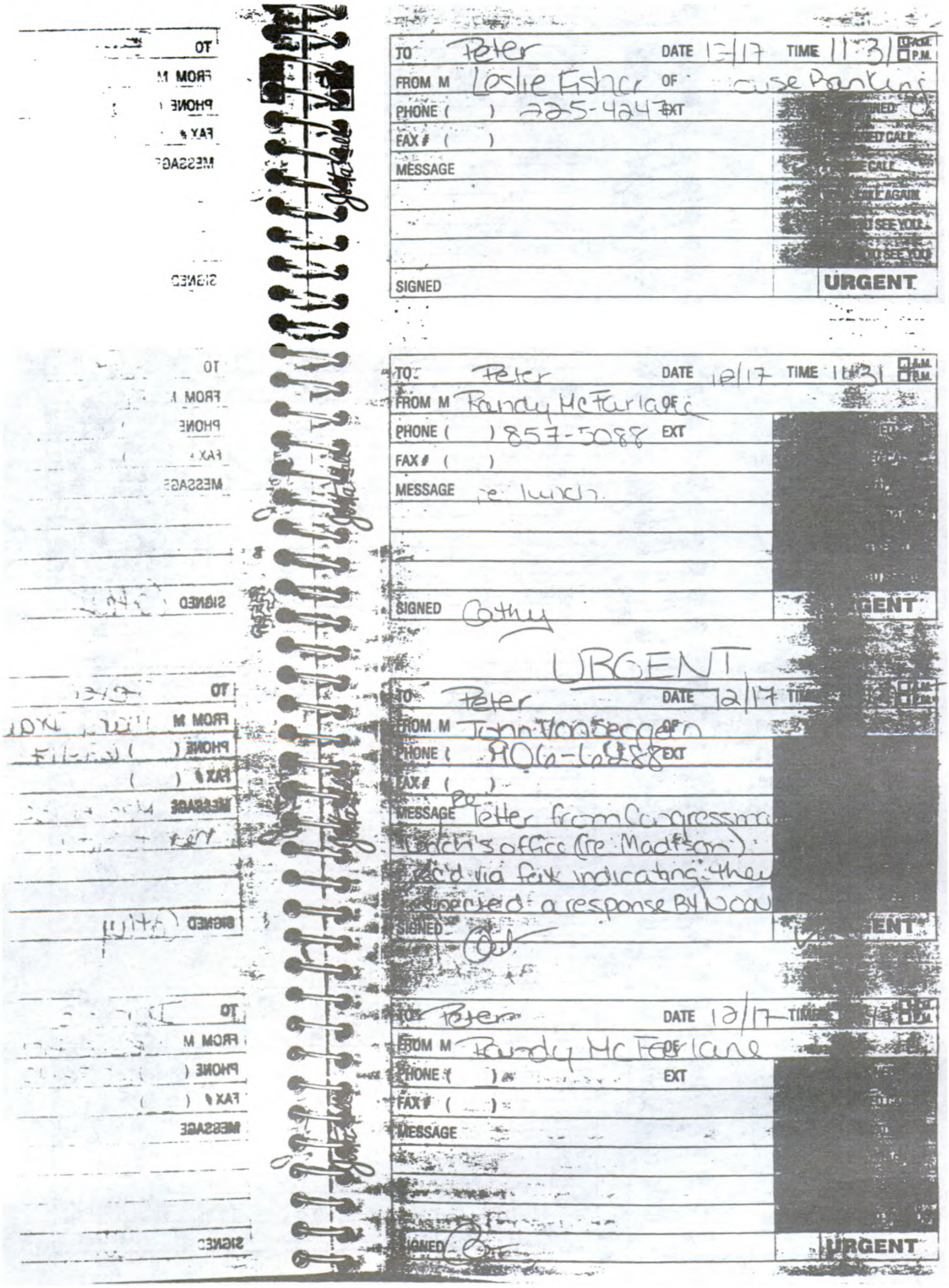
☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
URGENT

TO Peter DATE 12/17 TIME 9:18 ☐ A.M. ☐ P.M.
FROM M Vic Rojas OF
PHONE ( ) EXT
FAX # ( )
MESSAGE out of his office
will call back
@ 9:30
SIGNED Cathy

URGENT

TO Denise DATE 12/17 TIME 9:20 ☐ A.M. ☐ P.M.
FROM M Tim Fleughey OF Cong. Tom B[illegible]'s off
PHONE ( ) 225-4376 EXT
FAX # ( )
MESSAGE re Constituent's mortgage was
sold when S&L closed down, [illegible]
feels new owner is treating him un-
justly - is there anything that [illegible]
be done about [illegible]
SIGNED Cathy

URGENT



TO Peter DATE 12/17 TIME 11:31 ☑ A.M. ☐ P.M.
FROM M Leslie Fisher OF ouse Banking
PHONE ( ) 225-4247 EXT
FAX # ( )
MESSAGE
SIGNED
[redacted]
URGENT

TO Peter DATE 12/17 TIME 11:31 ☐ A.M. ☐ P.M.
FROM M Randy McFarlane OF
PHONE ( ) 857-5088 EXT
FAX # ( )
MESSAGE re lunch.
SIGNED Cathy
[redacted]
URGENT

URGENT

TO Peter DATE 12/17 TIME
FROM M John VonSeggern OF
PHONE ( ) 906-6888 EXT
FAX # ( )
MESSAGE Re letter from Congressman
Leach's office (re: Madison)
rec'd via fax indicating they
expected a response BY NOON
SIGNED Cat
[redacted]
URGENT

TO Peter DATE 12/17 TIME
FROM M Randy McFarlane OF
PHONE ( ) EXT
FAX # ( )
MESSAGE
SIGNED
[redacted]
URGENT

TO Steve DATE 12/17 TIME 25 ☐ A.M. ☐ P.M.

FROM M Warren [illegible] OF [illegible]

PHONE (614)488-1169 EXT Columbus, Ohio

FAX # ( )

MESSAGE [illegible] Allen, LA

(Cabot Lodge)

TELEPHONED

RETURNED CALL

✓ PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

SIGNED Cathy

URGENT

TO Peter DATE 12/17 TIME 4:36 ☐ A.M. ☐ P.M.

FROM M Elaine Mason OF

PHONE (404)225-5067 EXT

FAX # ( )

MESSAGE

TELEPHONED

RETURNED CALL

✓ [illegible]

[illegible]

SIGNED Cathy

URGENT

TO Peter DATE 12/17 TIME 9:46 ☐ A.M. ☐ P.M.

FROM M Jack Binkley OF

PHONE ( ) EXT 60730

FAX # ( )

MESSAGE

[illegible]

SIGNED Cathy

URGENT

TO Peter DATE 12/17 TIME 10:16 ☐ A.M. ☐ P.M.

FROM M Vic OF

PHONE ( ) EXT

FAX # ( )

MESSAGE

[illegible]

SIGNED Cathy

URGENT

TO Casey **DATE** 12/17 **TIME** 11:58 ☑ A.M. ☐ P.M.
FROM M [illegible] **OF**
PHONE (   ) **EXT** [illegible]
FAX # (   )
MESSAGE [illegible] which you wrote
in the application

SIGNED

☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
URGENT

TO Peter **DATE** 12/17 **TIME** 12:01 ☐ A.M. ☑ P.M.
FROM M Ian Affleck-Smith
PHONE (   ) 622-0191 **EXT**
FAX # (   )
MESSAGE is trying prior to 1:45, or
she will call again later

SIGNED Cathy

[redacted]

URGENT

TO Peter **DATE** 12/17 **TIME** [illegible] ☐ A.M. ☐ P.M.
FROM M Eric Spidler **OF**
PHONE (   ) 898-3837 **EXT**
FAX # (   )
MESSAGE Tom Schultz cannot
make a mtg. this afternoon,
but will meet w/ Bill Collish
Mon AM. Eric will attend Monday's m

SIGNED Cathy

[redacted]

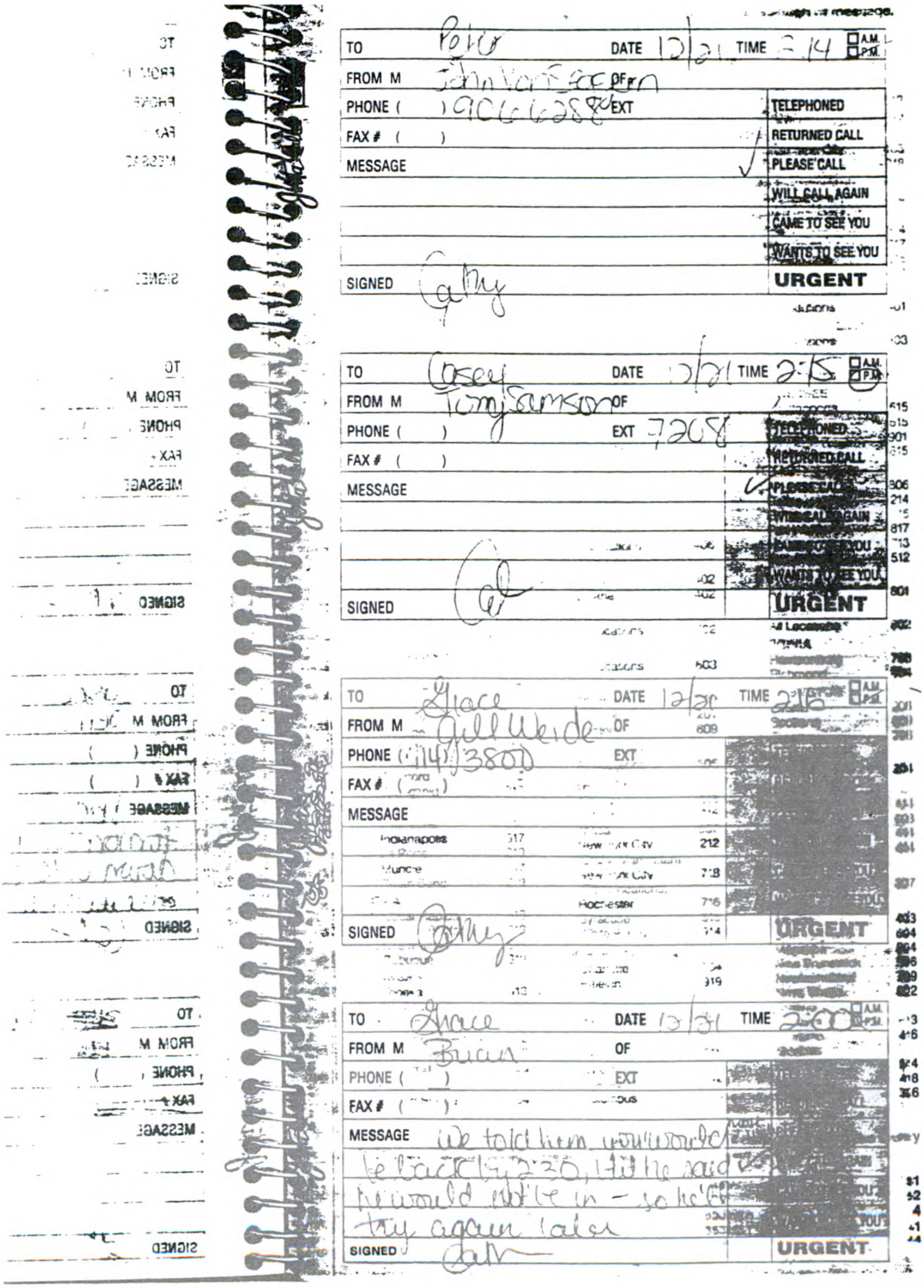
URGENT

TO Peter **DATE** 12/17 **TIME** [illegible] ☐ A.M. ☐ P.M.
FROM M John Vonseggard **OF**
PHONE (   ) 906-6288 **EXT**
FAX # (   )
MESSAGE Your attorneys should probab
speak to his attorneys. If John
in, you should speak with Dwi
Smith (906-6990)

SIGNED Cath

[redacted]

URGENT

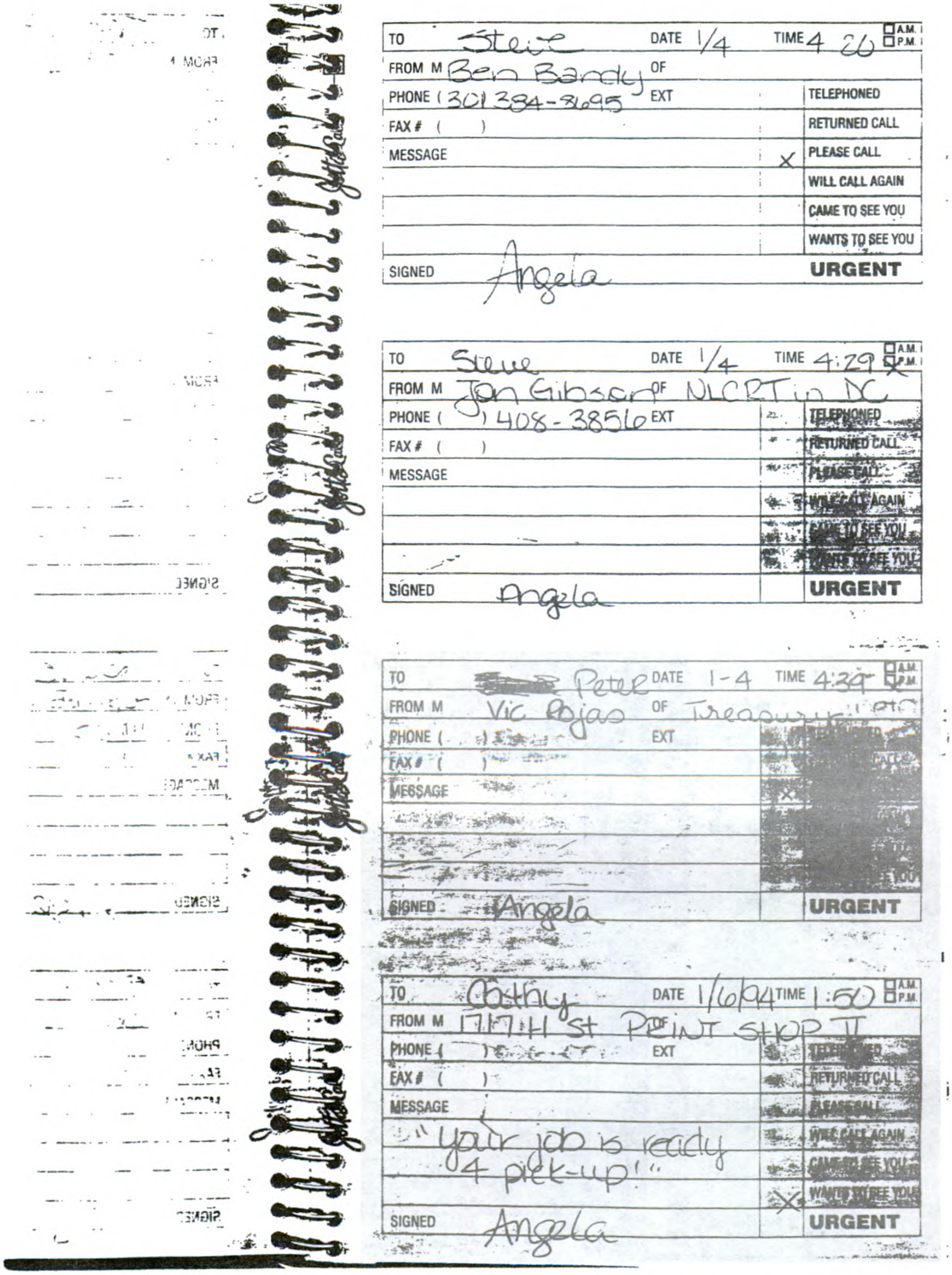


TO Peter DATE 12/21 TIME 2:14 ☐ A.M. ☐ P.M.
FROM M John Van Seeren OF
PHONE ( ) 9066628 EXT
FAX # ( )
MESSAGE
TELEPHONED
RETURNED CALL
✓ PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED Cathy
URGENT

TO Casey DATE 12/21 TIME 2:15 ☐ A.M. [✓ P.M.]
FROM M Tony Samson OF
PHONE ( ) EXT 7208
FAX # ( )
MESSAGE
TELEPHONED
RETURNED CALL
✓ PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED C
URGENT

TO Grace DATE 12/21 TIME 2:16 ☐ A.M. ☐ P.M.
FROM M Gill Weide OF
PHONE (414) 3800 EXT
FAX # ( )
MESSAGE
SIGNED Cathy
URGENT

TO Grace DATE 12/21 TIME 2:00 ☐ A.M. ☐ P.M.
FROM M Brian OF
PHONE ( ) EXT
FAX # ( )
MESSAGE We told him you would be back by 2:30, but he said he would still be in – so he'll try again later
SIGNED Cath
URGENT



TO Steve DATE 1/4 TIME 4 26 ☐ A.M. ☐ P.M.
FROM M Ben Bandy OF
PHONE (301 384-8695 EXT
FAX # ( )
MESSAGE

TELEPHONED
RETURNED CALL
X PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED Angela
URGENT

TO Steve DATE 1/4 TIME 4:29 ☐ A.M. ☒ P.M.
FROM M Jon Gibson OF NLCRT in DC
PHONE ( ) 408-38516 EXT
FAX # ( )
MESSAGE

TELEPHONED
RETURNED CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED Angela
URGENT

TO Peter DATE 1-4 TIME 4:39 ☐ A.M. ☒ P.M.
FROM M Vic Rojas OF Treasury
PHONE ( ) EXT
FAX # ( )
MESSAGE

X

SIGNED Angela
URGENT

TO Cathy DATE 1/6/94 TIME 1:50 ☐ A.M. ☐ P.M.
FROM M 1717 H St PRINT SHOP II
PHONE ( ) EXT
FAX # ( )
MESSAGE
"your job is ready 4 pick-up!"

TELEPHONED
RETURNED CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
X WANTS TO SEE YOU

SIGNED Angela
URGENT

TO Peter DATE 1/4 TIME 3:08 ☐ A.M. ☑ P.M.

FROM M Susan [illegible] OF [illegible]

PHONE (704) 375-1993 EXT

FAX # ( )

MESSAGE [illegible] wants to speak with you directly

SIGNED Cathy

☐ TELEPHONED
☐ RETURNED CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
URGENT

TO Peter DATE 1/4 TIME 4:50 ☐ A.M. ☑ P.M.

FROM M Matt Hogan OF Craig Garen

PHONE ( ) 225-5071 EXT

FAX # ( )

MESSAGE re Certificate of Ownership at DFW Airport (Dallas/Ft. Worth)

SIGNED Cathy

[redacted]

URGENT

TO Peter DATE 1/4 TIME [illegible] ☐ A.M. ☐ P.M.

FROM M Jane Yarborough OF [illegible]

PHONE ( ) Jean Hansen's offi

FAX # ( )

MESSAGE Jean Hansen still expect GAO Report Please send ASAP.

SIGNED Cathy & Frankie

[redacted]

✓ URGENT

TO Peter DATE 1/4 TIME 5:40 ☐ A.M. ☐ P.M.

FROM M Sharyl OF

PHONE ( ) EXT

FAX # ( )

MESSAGE

SIGNED

[redacted]

URGENT

TO Peter DATE [illegible] TIME 10 34 ☑ A.M. ☐ P.M.

FROM M [illegible] OF [illegible] 19

PHONE ( ) EXT

FAX # ( )

MESSAGE [illegible]

[illegible] 26

[illegible] d

[illegible] response ASAP

SIGNED Cathy

TELEPHONED

RETURNED CALL

✓ PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

URGENT

TO Janet DATE 1/5 TIME 10:39 ☑ A.M. ☐ P.M.

FROM M ~~[illegible]~~ Mary Drake

PHONE ( ) EXT 6-7417

FAX # ( )

MESSAGE

[redacted]

SIGNED Cathy

URGENT

TO Peter DATE 1/5/94 TIME 10:34 ☑ A.M. ☐ P.M.

FROM M Joel James OF

PHONE (214) 443 4575 EXT

FAX # ( )

MESSAGE

[redacted]

SIGNED Cathy

URGENT

TO Steve DATE 1/5 TIME 10:46 ☑ A.M. ☐ P.M.

FROM M Lynn Smith OF

PHONE ( ) 898 2339 EXT

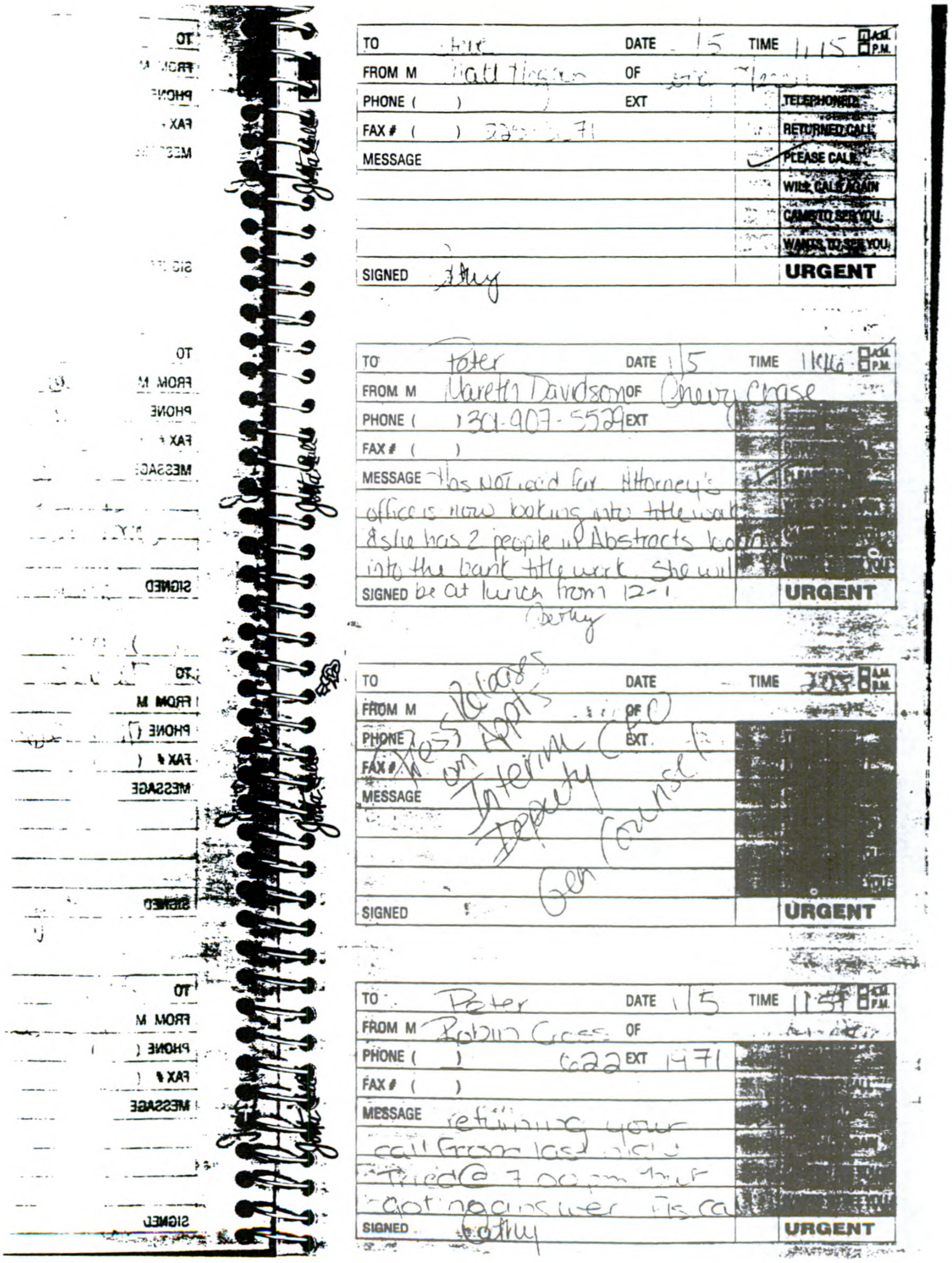
FAX # ( )

MESSAGE

[redacted]

SIGNED

URGENT



TO Pete DATE 1/5 TIME 1:15 ☑ A.M. ☐ P.M.
FROM M Matt Hogan OF [illegible]
PHONE ( ) EXT
FAX # ( ) 225-[illegible]71
MESSAGE
☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
SIGNED Cathy
URGENT

TO Peter DATE 1/5 TIME 11:46 ☑ A.M. ☐ P.M.
FROM M Vareth Davidson OF Chevy Chase
PHONE ( ) 301-907-5529 EXT
FAX # ( )
MESSAGE Has NOT paid for Attorney's office is now looking into title work & she has 2 people w/ Abstracts looking into the bank title work. She will
SIGNED be at lunch from 12-1
Cathy
[redacted]
URGENT

TO DATE TIME 3:05 ☐ A.M. ☐ P.M.
FROM M OF
PHONE ( ) EXT
FAX # ( )
MESSAGE
Press Releases on Appts
Interim CEO
Deputy Gen Counsel
SIGNED
[redacted]
URGENT

TO Peter DATE 1/5 TIME 11:54 ☐ A.M. ☐ P.M.
FROM M Robin Cross OF
PHONE ( ) 622 EXT 1971
FAX # ( )
MESSAGE returning your call from last night Tried @ 7:00 pm that got no answer Pls call
SIGNED Cathy
[redacted]
URGENT

TO Peter DATE 1/6 TIME 4:29 ☐ A.M. ☐ P.M.
FROM M Cheryl OF
PHONE ( ) EXT
FAX # ( )
MESSAGE
SIGNED Cathy

TELEPHONED
RETURNED CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
URGENT

TO Peter DATE 1/6 TIME 4:30 ☐ A.M. ☐ P.M.
FROM M Vic Rogers OF
PHONE ( ) EXT
FAX # ( ) (222 1986)
MESSAGE
I'd like a mtg at B.C.C
(collesiau's office)
SIGNED Cathy

ONED
ED CALL
CALL
ALL AGAIN
O SEE YOU
TO SEE YOU
URGENT

TO Angela DATE 1/6 TIME 4:36 ☐ A.M. ☐ P.M.
FROM M Luther OF
PHONE ( ) EXT
FAX # ( )
MESSAGE has gone to McDonald
across the street!
SIGNED C

TO SEE YOU
URGENT

TO ~~[illegible]~~ Steve DATE 1/6 TIME [illegible] ☐ A.M. ☐ P.M.
FROM M Cathy Pardue OF [illegible]
PHONE ( ) EXT
FAX # ( )
MESSAGE
Ted Rogers
Don Carter
SIGNED

ONED
NED CALL
E CALL
CALL AGAIN
TO SEE YOU
URGENT

TO Peter DATE 1/7 TIME 2:33 ☐ A.M. ☐ P.M.
FROM M Vic Rojas OF Treasury
PHONE ( ) EXT TELEPHONED
FAX # ( ) RETURNED CALL
MESSAGE X PLEASE CALL
please call! WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED Angela URGENT

TO Denise DATE 1/10/94 TIME 1:50 ☐ A.M. ☐ P.M.
FROM M Billie Shepard OF
PHONE ( ) 317-747-5566 EXT TELEPHONED
FAX # ( ) RETURNED CALL
MESSAGE Re "Maureen Hinutselman" X PLEASE CALL
called [illegible] WILL CALL AGAIN
[illegible] never responded CAME TO SEE YOU
Please call WANTS TO SEE YOU
SIGNED Angela URGENT

TO Steve DATE 1/10 TIME 4:03 ☐ A.M. ☐ P.M.
FROM M Greg Noble OF
PHONE (214 740-7807 EXT TELEPHONED
FAX # ( ) RETURNED CALL
MESSAGE PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED Angela URGENT

TO Peter DATE 1/18 TIME 9:15 ☐ A.M. ☐ P.M.
FROM M Vic OF
PHONE ( ) EXT TELEPHONED
FAX # ( ) RETURNED CALL
MESSAGE PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED Gail URGENT

TO Denise DATE 1/10 TIME 3:56 ☐ A.M. ☑ P.M.

FROM M Fr. Griffin OF Longmeadow Lipinski

PHONE ( ) 225-5701 EXT

FAX # ( )

MESSAGE

Names & addresses of winning bidder for RE & mortgage loans (nationwide) [illegible]

SIGNED Cathy

TELEPHONED

RETURNED CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

URGENT

TO Peter DATE 1/10 TIME 3:03 ☐ A.M. ☐ P.M.

FROM M Joan Affleck-Smith OF

PHONE ( ) 622 0191 EXT

FAX # ( )

MESSAGE

SIGNED Cath

URGENT

TO Grace DATE 1/10 TIME 3:03 ☐ A.M. ☑ P.M.

FROM M Joan Affleck-Smith OF

PHONE ( ) 622-0191 EXT

FAX # ( )

MESSAGE

SIGNED Cathy

URGENT

TO Grace DATE 1/10 TIME 3:05 ☐ A.M. ☐ P.M.

FROM M Brian OF

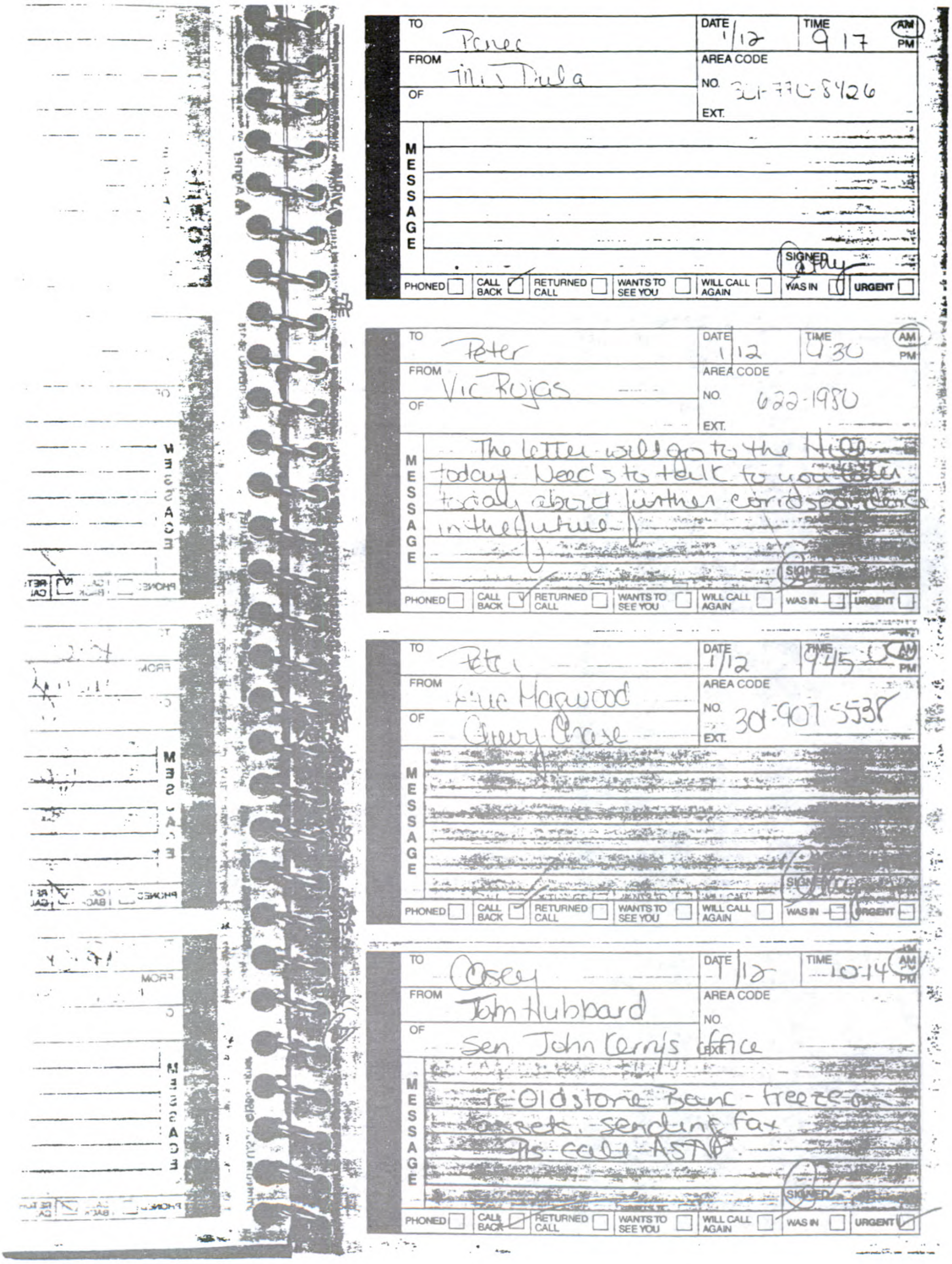
PHONE ( ) EXT

FAX # ( )

MESSAGE

SIGNED Cathy

URGENT

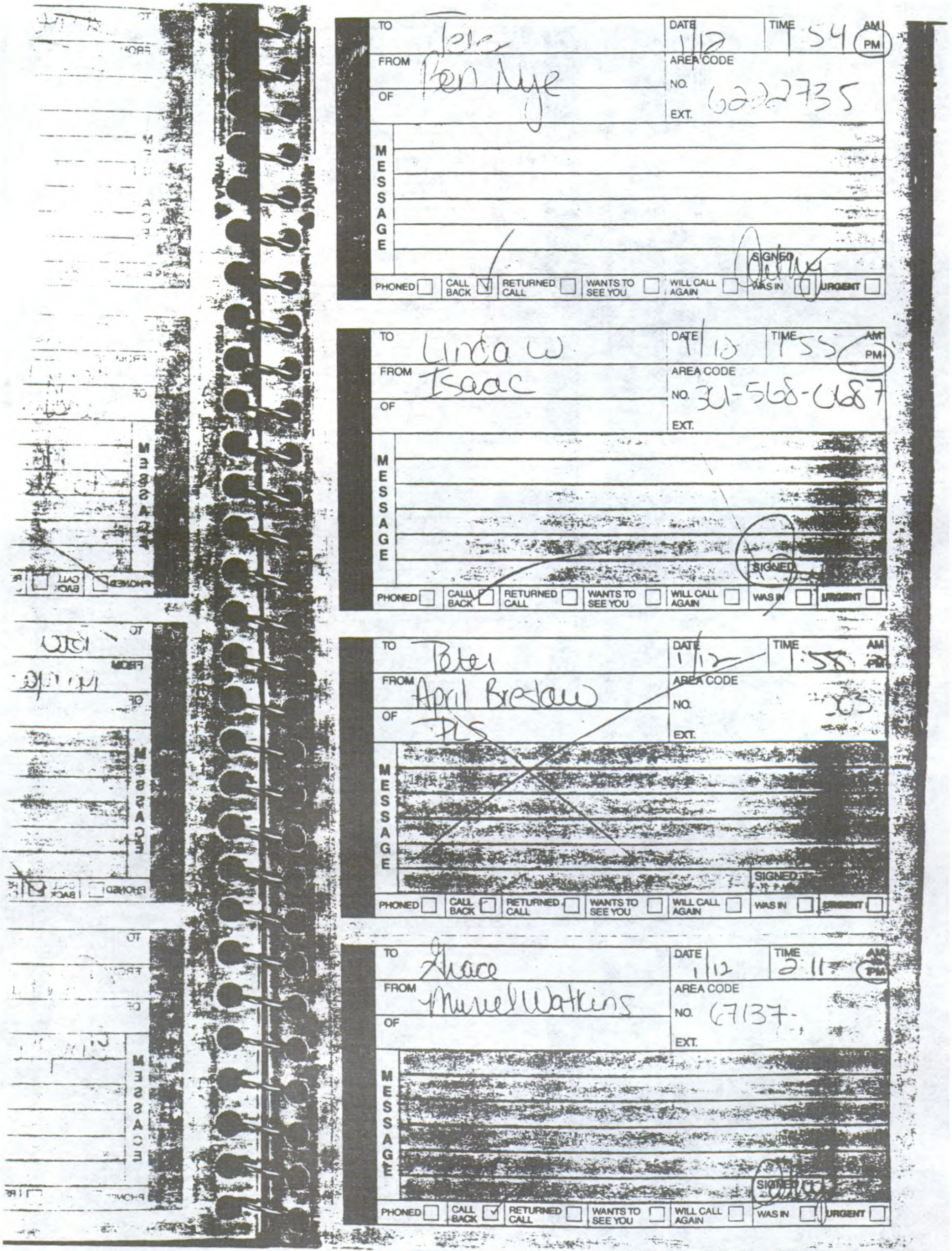


TO Perec
DATE 1/12
TIME 9 17 [✓ AM] PM
FROM Mis Tula
OF
AREA CODE
NO. 301-770-8426
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 1/12
TIME 9:30 [✓ AM] PM
FROM Vic Rojas
OF
AREA CODE
NO. 622-1980
EXT.
MESSAGE The letter will go to the Hill today. Need's to talk to you later today about further correspondence in the future.
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 1/12
TIME 9:45 [✓ AM] PM
FROM Eric Hagwood
OF Chevy Chase
AREA CODE
NO. 301-907-5538
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Casey
DATE 1/12
TIME 10:14 [✓ AM] PM
FROM John Hubbard
OF Sen. John Kerry's office
AREA CODE
NO.
EXT.
MESSAGE re Oldstone Banc - freeze on assets. sending fax. Pls. call ASAP.
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☑

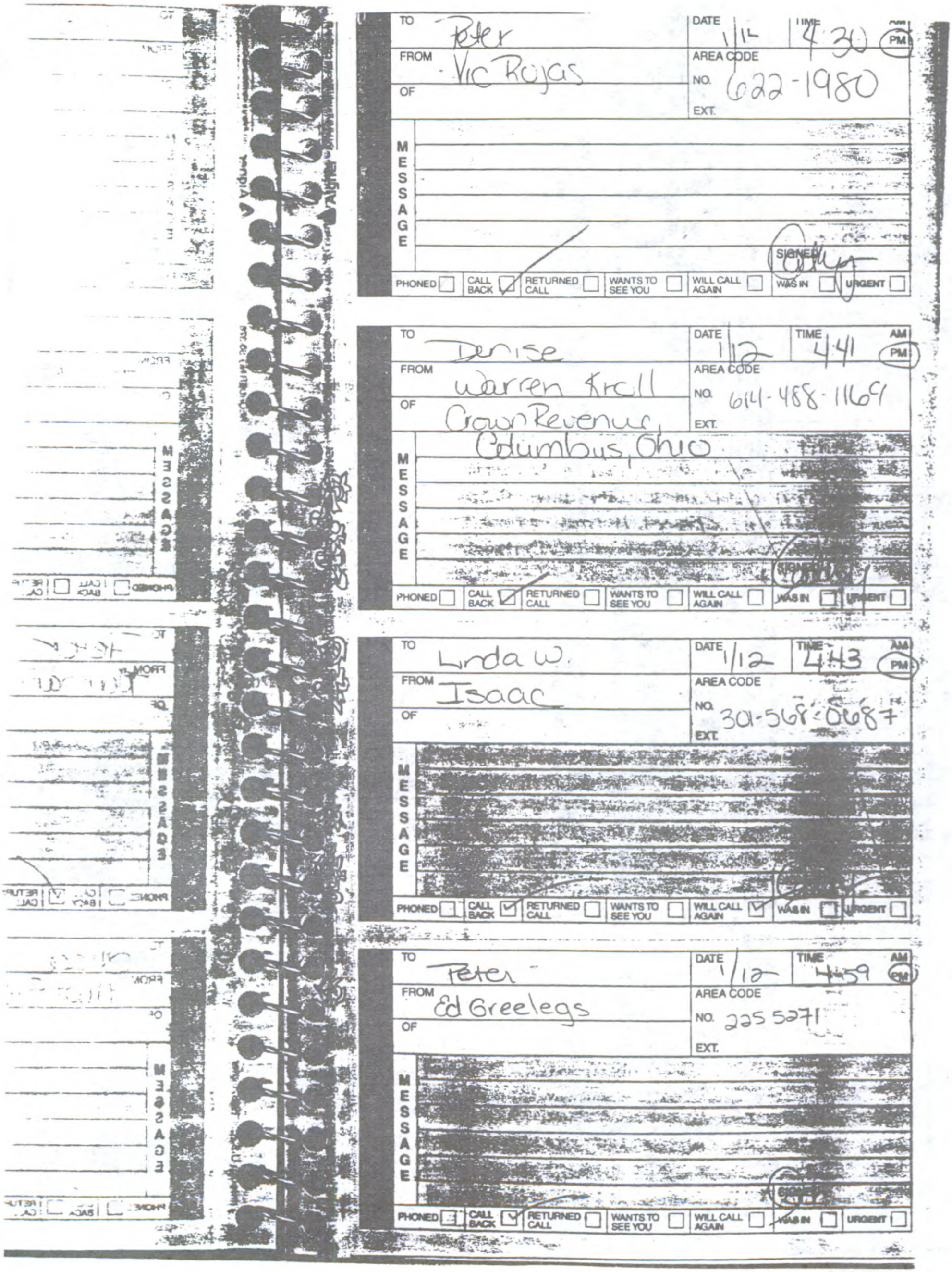


TO Pete
DATE 1/12
TIME 1:54 AM [✓ PM]
FROM Ben Nye
OF
AREA CODE
NO. 6222735
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Linda W
DATE 1/12
TIME 1:55 AM [✓ PM]
FROM Isaac
OF
AREA CODE
NO. 301-568-6687
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 1/12
TIME 1:58 AM PM
FROM April Breslaw
OF PLS
AREA CODE
NO. 303
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Grace
DATE 1/12
TIME 2:11 AM [✓ PM]
FROM Muriel Watkins
OF
AREA CODE
NO. 67137
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

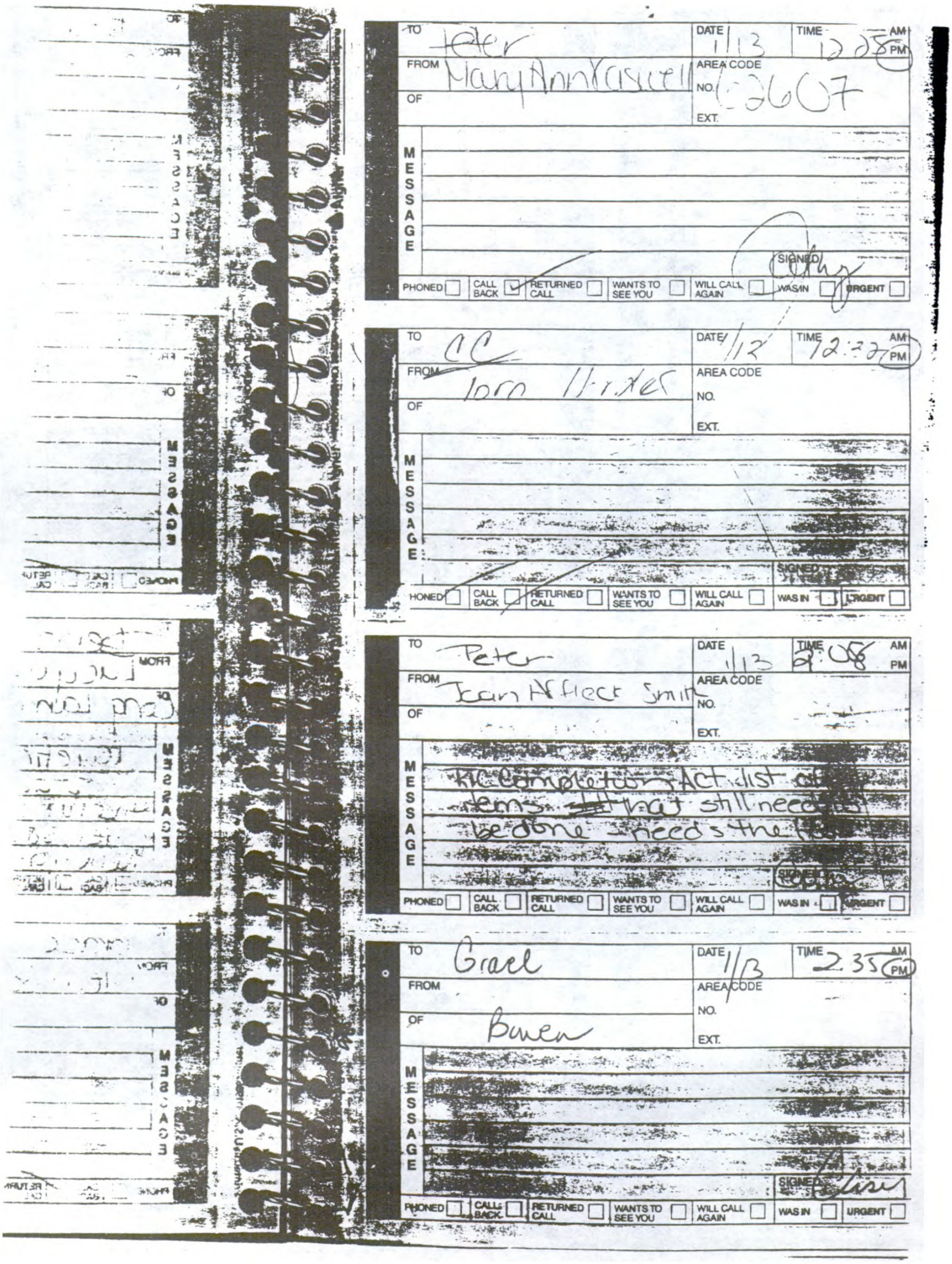


TO Peter
DATE 1/12 TIME 4:30 AM [✓ PM]
FROM Vic Rojas
AREA CODE
OF
NO. 622-1980
EXT.
MESSAGE
SIGNED Cathy
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Denise
DATE 1/12 TIME 4:41 AM [✓ PM]
FROM Warren Krall
AREA CODE
OF Crown Revenue, Columbus, Ohio
NO. 614-488-1169
EXT.
MESSAGE [redacted]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Linda W.
DATE 1/12 TIME 4:43 AM [✓ PM]
FROM Isaac
AREA CODE
OF
NO. 301-568-0687
EXT.
MESSAGE [redacted]
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☑ WAS IN ☐ URGENT ☐

TO Peter
DATE 1/12 TIME 4:59 AM [✓ PM]
FROM Ed Greelegs
AREA CODE
OF
NO. 225 5271
EXT.
MESSAGE [redacted]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

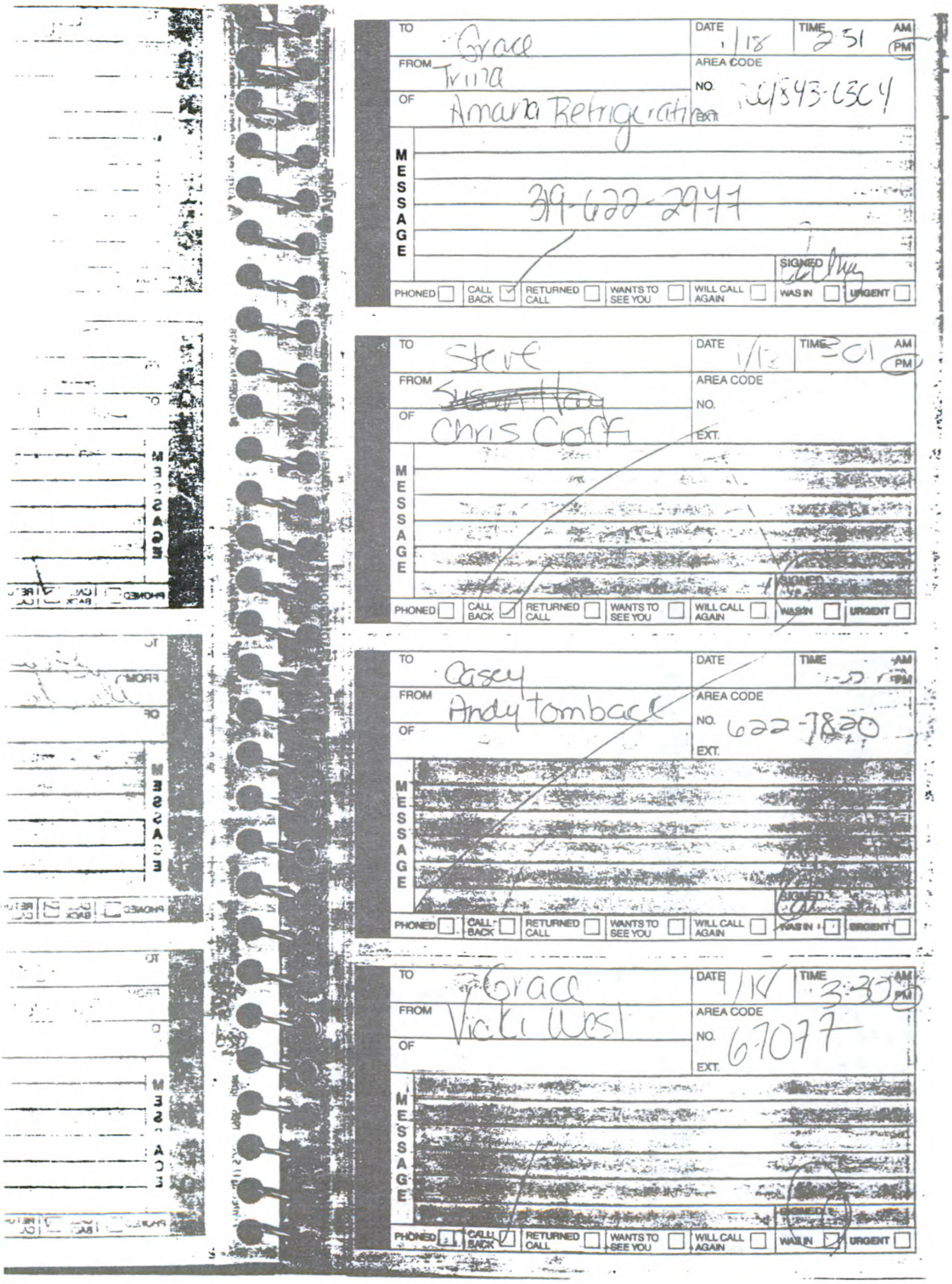


TO Peter
DATE 1/13
TIME 12:28 AM [✓ PM]
FROM Mary Ann Caswell
AREA CODE
NO. 6-2607
OF
EXT.
MESSAGE
SIGNED Cathy
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO CC
DATE 1/12
TIME 12:22 AM [✓ PM]
FROM Tom Hunter
AREA CODE
NO.
OF
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 1/13
TIME 2:08 AM PM
FROM Jean Affleck Smith
AREA CODE
NO.
OF
EXT.
MESSAGE KIC Completion Act list of items that still need to be done - needs the [illegible]
SIGNED Cathy
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Grace
DATE 1/13
TIME 2:35 AM [✓ PM]
FROM
AREA CODE
NO.
OF Bowen
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐



TO Grace
DATE 1/18
TIME 2:51 AM [✓ PM]
FROM Trina
OF Amana Refrigeration
AREA CODE
NO. [illegible]/843-6304
EXT.
MESSAGE
319-622-2947
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Steve
DATE 1/18
TIME 3:01 AM [✓ PM]
FROM ~~Susan Hay~~
OF Chris Cioffi
AREA CODE
NO.
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Casey
DATE
TIME [illegible] AM PM
FROM Andy tomback
OF
AREA CODE
NO. 622-7820
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Grace
DATE 1/18
TIME 3:30 AM [✓ PM]
FROM Vicki West
OF
AREA CODE
NO. 67077
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☑ URGENT ☐

TO Peter DATE 1/21 TIME 935 ☒ A.M. ☐ P.M.

FROM M Jean Affleck-Smith OF

PHONE ( ) 6220191 EXT

FAX # ( )

MESSAGE

☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
☐ URGENT

SIGNED

TO Peter DATE 1/24 TIME 513 ☐ A.M. ☒ P.M.

FROM M Tom Hincles OF

PHONE ( ) EXT 63023

FAX # ( )

MESSAGE

☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
☐ URGENT

SIGNED Cath

TO Peter DATE 1/24 TIME 514 ☐ A.M. ☒ P.M.

FROM M John VonSeggern OF

PHONE ( ) 906-6288 EXT

FAX # ( )

MESSAGE

✓ re: Madison Guaranty

☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
☐ URGENT

SIGNED Cathy

TO Casey DATE 1/24 TIME 517 ☐ A.M. ☒ P.M.

FROM M Barry Whitehead

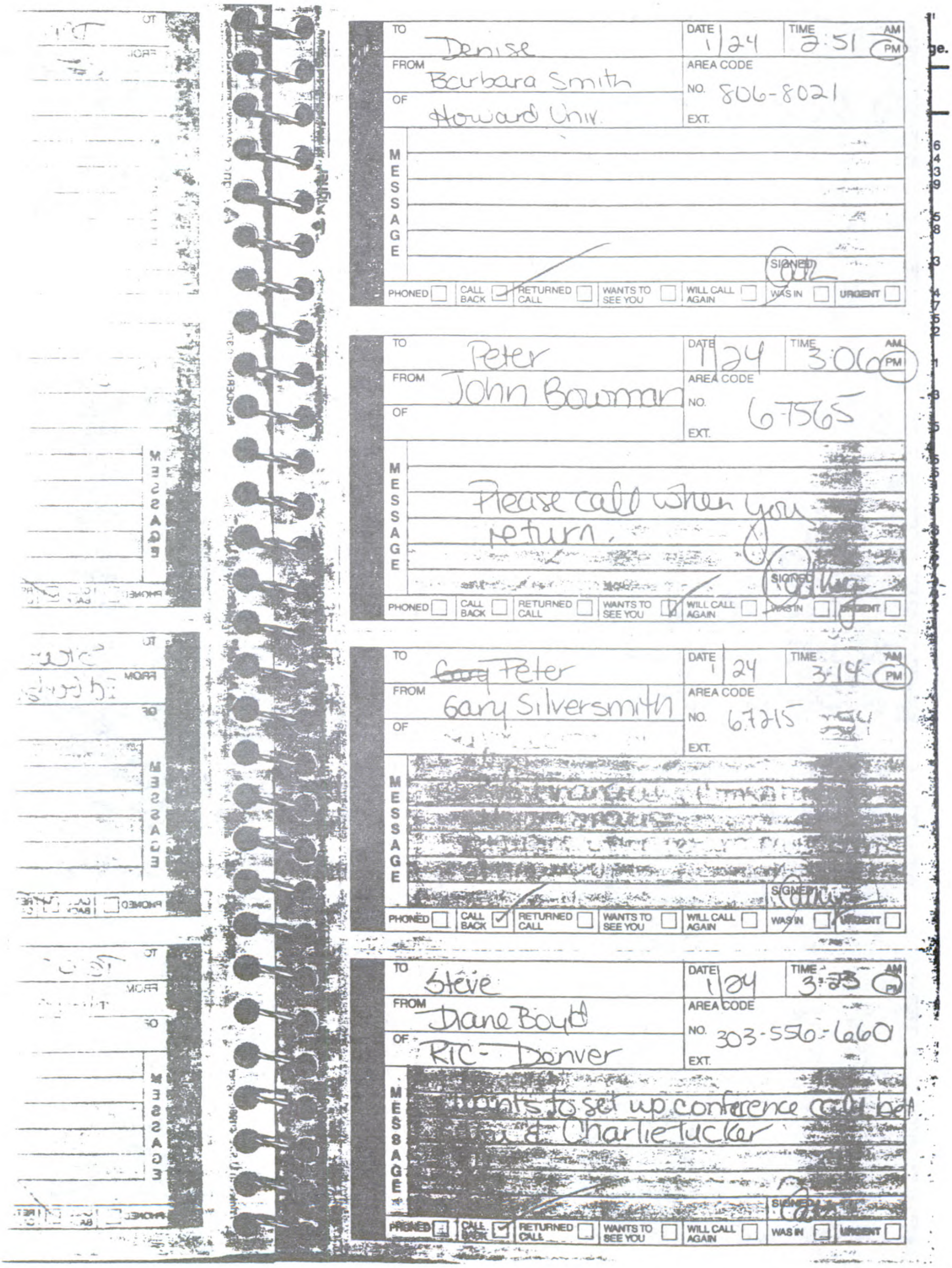
PHONE ( ) EXT

FAX # ( ) 7375113

MESSAGE

☐ TELEPHONED
☑ RETURNED CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
☐ URGENT

SIGNED C

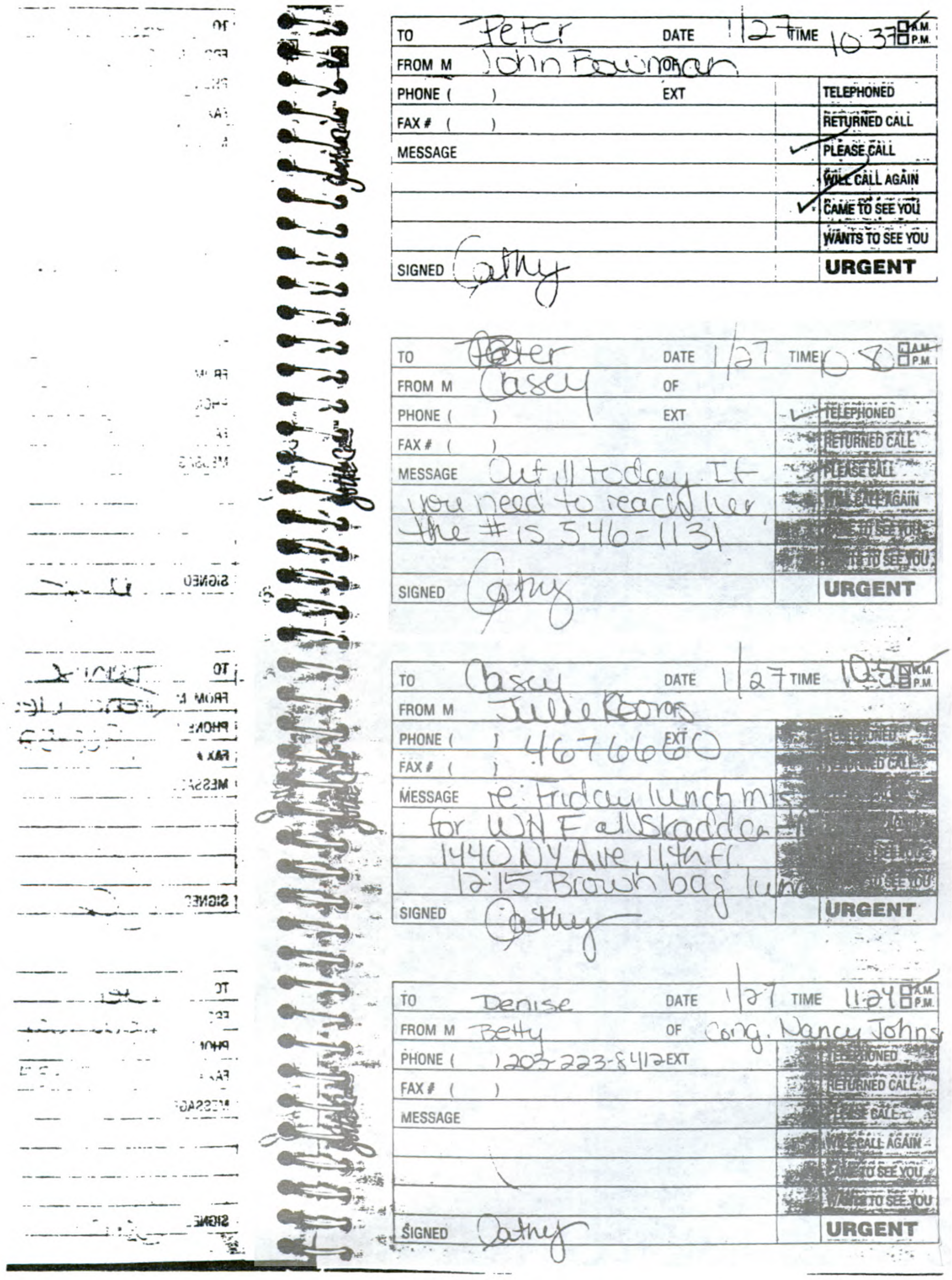


TO Denise
DATE 1/24 TIME 2:51 AM [✓ PM]
FROM Barbara Smith
AREA CODE
OF Howard Univ.
NO. 806-8021
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 1/24 TIME 3:06 AM [✓ PM]
FROM John Bowman
AREA CODE
OF
NO. 67565
EXT.
MESSAGE Please call when you return.
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☑ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO ~~Gary~~ Peter
DATE 1/24 TIME 3:14 AM [✓ PM]
FROM Gary Silversmith
AREA CODE
OF
NO. 67215
EXT.
MESSAGE [illegible]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Steve
DATE 1/24 TIME 3:25 AM [✓ PM]
FROM Diane Boyd
AREA CODE
OF RTC - Denver
NO. 303-556-6601
EXT.
MESSAGE wants to set up conference call bet
[illegible] & Charlie Tucker
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐



TO Peter DATE 1/27 TIME 10:37 ☒ A.M. ☐ P.M.
FROM M John Bowman OF
PHONE ( ) EXT
FAX # ( )
MESSAGE
SIGNED Cathy

TELEPHONED
RETURNED CALL
✓ PLEASE CALL
WILL CALL AGAIN
✓ CAME TO SEE YOU
WANTS TO SEE YOU
URGENT

TO Peter DATE 1/27 TIME 10:08 ☒ A.M. ☐ P.M.
FROM M Casey OF
PHONE ( ) EXT
FAX # ( )
MESSAGE Out ill today. If you need to reach her, the # is 546-1131
SIGNED Cathy

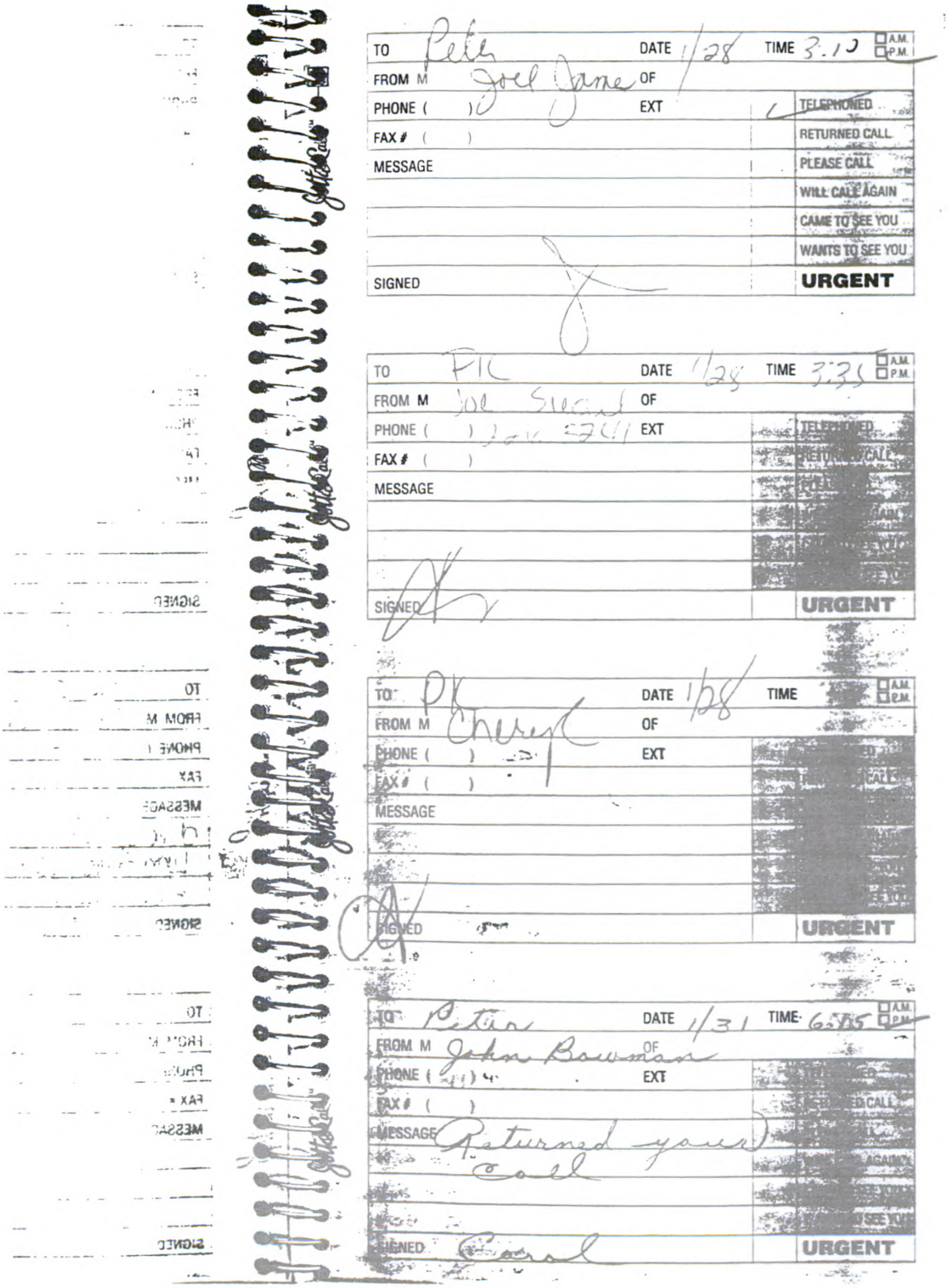
✓ TELEPHONED
RETURNED CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
URGENT

TO Casey DATE 1/27 TIME 10:50 ☒ A.M. ☐ P.M.
FROM M Julie Reeves OF
PHONE ( ) 4676660 EXT 0
FAX # ( )
MESSAGE re: Friday lunch mt
for WNF at Skadden
1440 NY Ave, 11th Fl.
12:15 Brown bag lunc
SIGNED Cathy

TELEPHONED
RETURNED CALL
SEE YOU
URGENT

TO Denise DATE 1/27 TIME 11:24 ☒ A.M. ☐ P.M.
FROM M Betty OF Cong. Nancy Johns
PHONE ( ) 205-223-8412 EXT
FAX # ( )
MESSAGE
SIGNED Cathy

TELEPHONED
RETURNED CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
URGENT



TO Peter DATE 1/28 TIME 3:10 ☐ A.M. ☑ P.M.
FROM M Joel Jane OF
PHONE ( ) EXT
✓ TELEPHONED
RETURNED CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
MESSAGE
SIGNED
URGENT

TO PK DATE 1/28 TIME 3:35 ☐ A.M. ☐ P.M.
FROM M Joe Sued OF
PHONE ( ) [illegible] 5741 EXT
FAX # ( )
TELEPHONED
RETURNED CALL
MESSAGE
SIGNED
URGENT

TO PK DATE 1/28 TIME ☐ A.M. ☐ P.M.
FROM M Cheryl OF
PHONE ( ) EXT
FAX # ( )
MESSAGE
SIGNED
URGENT

TO Peter DATE 1/31 TIME 6:35 ☐ A.M. ☑ P.M.
FROM M John Bowman OF
PHONE ( ) EXT
FAX # ( )
RETURNED CALL
MESSAGE Returned your call
SIGNED Carol
URGENT

TO Casey DATE 2/1 TIME 4:21 ☐ A.M. [✓ ☐ P.M.]

FROM M Claire OF

PHONE ( ) 434-4821 EXT

FAX # ( )

MESSAGE

- TELEPHONED
- RETURNED CALL
- ✓ PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU
- **URGENT**

SIGNED Cathy

TO Grace DATE 2/1 TIME 4:25 ☐ A.M. ☒ P.M.

FROM M Clark Blight OF

PHONE ( ) 703-908-7860 EXT

FAX # ( )

MESSAGE

- TELEPHONED
- [illegible]ED CALL
- [illegible]
- [illegible]AGAIN
- [illegible] SEE YOU
- [illegible] TO SEE YOU
- **URGENT**

SIGNED Cathy

TO Peter DATE 2/1 TIME 4:47 ☐ A.M. ☐ P.M.

FROM M Anne OF Congressman Cox

PHONE (714) 756-2244 EXT

FAX # ( )

MESSAGE

- [illegible]NED
- [illegible]ED CALL
- [illegible]
- [illegible]
- [illegible] SEE YOU
- [illegible] SEE YOU
- **URGENT**

SIGNED Cathy

TO Peter DATE 2/2 TIME 9:33 ☐ A.M. ☐ P.M.

FROM M Vic Rojas OF

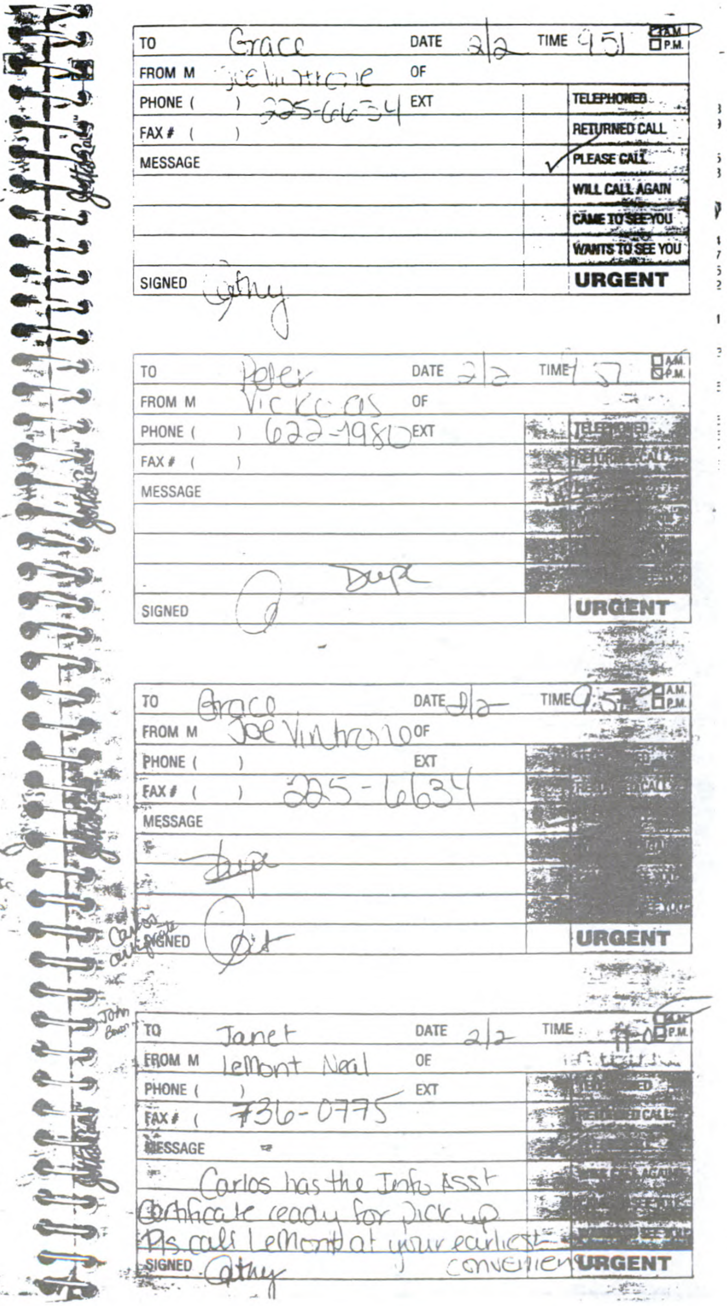
PHONE ( ) 622-1980 EXT

FAX # ( )

MESSAGE

- [illegible]ONED
- [illegible]RNED CALL
- [illegible]CALL
- [illegible]LL AGAIN
- [illegible] SEE YOU
- [illegible] TO SEE YOU
- **URGENT**

SIGNED Cathy



TO Grace DATE 2/2 TIME 951 ☑ A.M. ☐ P.M.
FROM M Joe Vintrone OF
PHONE ( ) 225-6634 EXT
FAX # ( )
MESSAGE
☐ TELEPHONED
☐ RETURNED CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU
☐ URGENT
SIGNED Cathy

TO Peter DATE 2/2 TIME 1 57 ☐ A.M. ☑ P.M.
FROM M Vickeras OF
PHONE ( ) 622-1980 EXT
FAX # ( )
MESSAGE
Dupe
URGENT
SIGNED

TO Grace DATE 2/2 TIME 9:5 ☐ A.M. ☐ P.M.
FROM M Joe Vintrono OF
PHONE ( ) EXT
FAX # ( ) 225-6634
MESSAGE
Dupe
URGENT
SIGNED Pat

Carlos out

John Bowen

TO Janet DATE 2/2 TIME 1100 ☐ A.M. ☐ P.M.
FROM M LeMont Neal OF
PHONE ( ) EXT
FAX # (736-0775
MESSAGE
Carlos has the Info Asst Certificate ready for pick up Pls call LeMont at your earliest convenien
URGENT
SIGNED Cathy

TO Casey	DATE 2|8	TIME 2 28	☐ A.M. ☑ P.M.
FROM M Elaine	OF		
PHONE (704-751-0888	EXT		TELEPHONED
FAX # ( )			RETURNED CALL
MESSAGE			PLEASE CALL
			WILL CALL AGAIN
			CAME TO SEE YOU
			WANTS TO SEE YOU
SIGNED Cathy			URGENT

TO Janel	DATE 2/2	TIME 2 25	☐ A.M. ☑ P.M.
FROM M Paul Tanner	OF		
PHONE ( )	EXT 67246		TELEPHONED
FAX # ( )			RETURNED CALL
MESSAGE		✓	PLEASE CALL
			WILL CALL AGAIN
			CAME TO SEE YOU
			WANTS TO SEE YOU
SIGNED Cathy			URGENT

TO Peter	DATE 2|2	TIME 4 29	☐ A.M. ☐ P.M.
FROM M John Bowman	OF		
PHONE ( )	EXT		[illegible]
FAX # ( )			[illegible]
MESSAGE		✓	[illegible]
			[illegible]
			[illegible]
			[illegible]
SIGNED Cathy			URGENT

TO PK	DATE 4/2	TIME 557	☐ A.M. ☐ P.M.
FROM M John Browman	OF		
PHONE ( )	EXT		[illegible]
FAX # ( ) Treasury			RETURNED CALL
MESSAGE			[illegible]
			WILL CALL AGAIN
			CAME TO SEE YOU
			WANTS TO SEE YOU
SIGNED			URGENT

TO P(DATE 2/2 TIME 5:57 ☐ A.M. ☐ P.M.

FROM M Bo [illegible] OF

PHONE ( ) EXT

FAX # ( )

MESSAGE

Call Tonight or

First thing in

the AM

TELEPHONED

RETURNED CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

URGENT

SIGNED

Sen Cohen wants to get on mailing Gov't Auctions for purchasing loans

---

TO Peter DATE 2/2 TIME 8:44 ☒ A.M. ☐ P.M.

FROM M Clark Blight OF IG's office

PHONE ( ) 87860 EXT

FAX # ( )

MESSAGE Returning your voice msg to Jack Adair from last evening

PHONED

RNED CALL

AGAIN

URGENT

SIGNED Cathy

TO Peter DATE 2/3 TIME 10:32 ☐ A.M. ☐ P.M.

FROM M Wendy Sams OF API - Amer Petroleum Ins

PHONE ( ) 6828370 EXT

FAX # ( )

MESSAGE

NED CALL

AGAIN

SEE YOU

SEE YOU

URGENT

SIGNED Cathy

TO Steve DATE 2/3 TIME 12:23 ☐ A.M. ☐ P.M.

FROM M Stacey Stump OF Sen Cohen

PHONE ( ) 224-5901 EXT

FAX # ( )

MESSAGE Wayne Fuller, 41 Hill St- #6, South Portland, ME 04106 would like to get on a mailing list announcing gov't auctions for purchasing loans through RTC

ONED

NED CALL

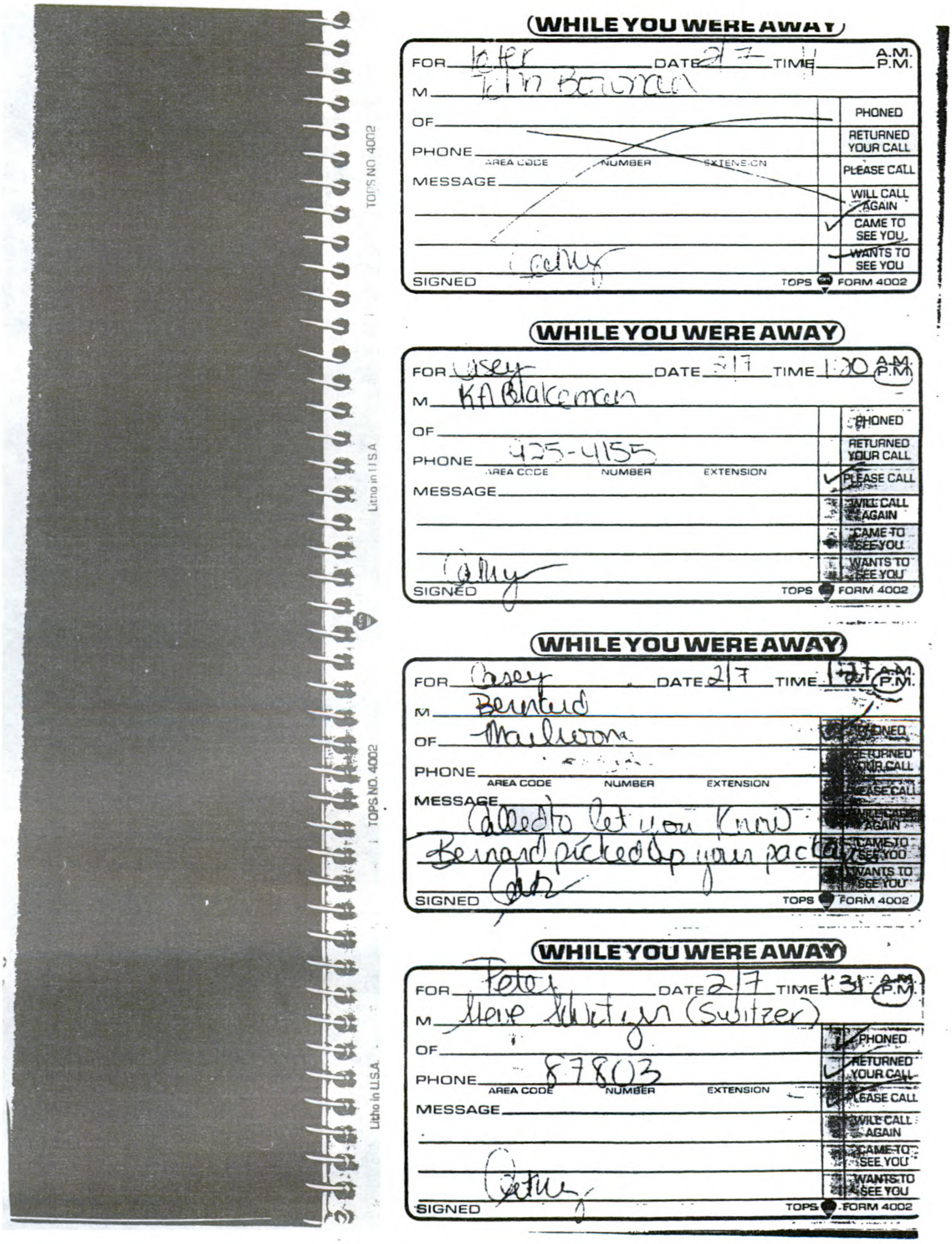
CALL AGAIN

SEE YOU

WANTS TO SEE YOU

URGENT

SIGNED


TOPS NO. 4002
Litho in U.S.A.
TOPS NO. 4002
Litho in U.S.A.

(WHILE YOU WERE AWAY)

FOR Peter DATE 2/7 TIME 4 A.M. P.M.
M John Bowman
OF
PHONE
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED Cathy

- PHONED
- RETURNED YOUR CALL
- PLEASE CALL
- WILL CALL AGAIN
- [✓ CAME TO SEE YOU]
- WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 2/7 TIME 1:30 A.M. [✓ P.M.]
M KA Blakeman
OF
PHONE 425-4155
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED Cathy

- PHONED
- RETURNED YOUR CALL
- [✓ PLEASE CALL]
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 2/7 TIME 1:27 A.M. [✓ P.M.]
M Bernard
OF Mailroom
PHONE
AREA CODE NUMBER EXTENSION
MESSAGE Called to let you know Bernard picked up your package
SIGNED Cathy

- [✓ PHONED]
- RETURNED YOUR CALL
- PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 2/7 TIME 1:31 A.M. [✓ P.M.]
M Steve Schwitzer (Switzer)
OF
PHONE 87803
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED Cathy

- [✓ PHONED]
- [✓ RETURNED YOUR CALL]
- PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 4002

TO Casey DATE 2/3 TIME 2:20 ☐ A.M. ☑ P.M.

FROM M Cindy Schacc. OF

PHONE (   ) EXT 66748.

FAX # (   )

MESSAGE Needs reimage who specifically needs laptop, [illegible] & printer

TELEPHONED

RETURNED CALL

✓ PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

SIGNED Cathy

URGENT

TO Peter Jean Hansen DATE 2/3 TIME 2:40 ☐ A.M. ☑ P.M.

FROM M OF

PHONE (   ) 6220287 EXT

FAX # (   )

MESSAGE

TELEPHONED

RETURNED CALL

✓ [illegible]

[illegible] AGAIN

[illegible] SEE YOU

[illegible] SEE YOU

SIGNED Cathy

URGENT

TO Frankie DATE 2/3 TIME 4:[illegible] ☐ A.M. ☐ P.M.

FROM M Patrice Riley OF

PHONE (   ) EXT 67377

FAX # (   )

MESSAGE re Conference Rm.

[illegible] CALL

[illegible] SEE YOU

[illegible] SEE YOU

SIGNED Cathy

URGENT

TO ~~Denise~~ DATE ~~2/3~~ TIME ~~4~~ ☐ A.M. ☐ P.M.

FROM M ~~Deborah House~~ OF

PHONE (   ) ~~Sandy~~ EXT ~~J. - Mail~~

FAX # (   )

MESSAGE

TELEPHONED

RETURNED CALL

[illegible] CALL

WILL CALL AGAIN

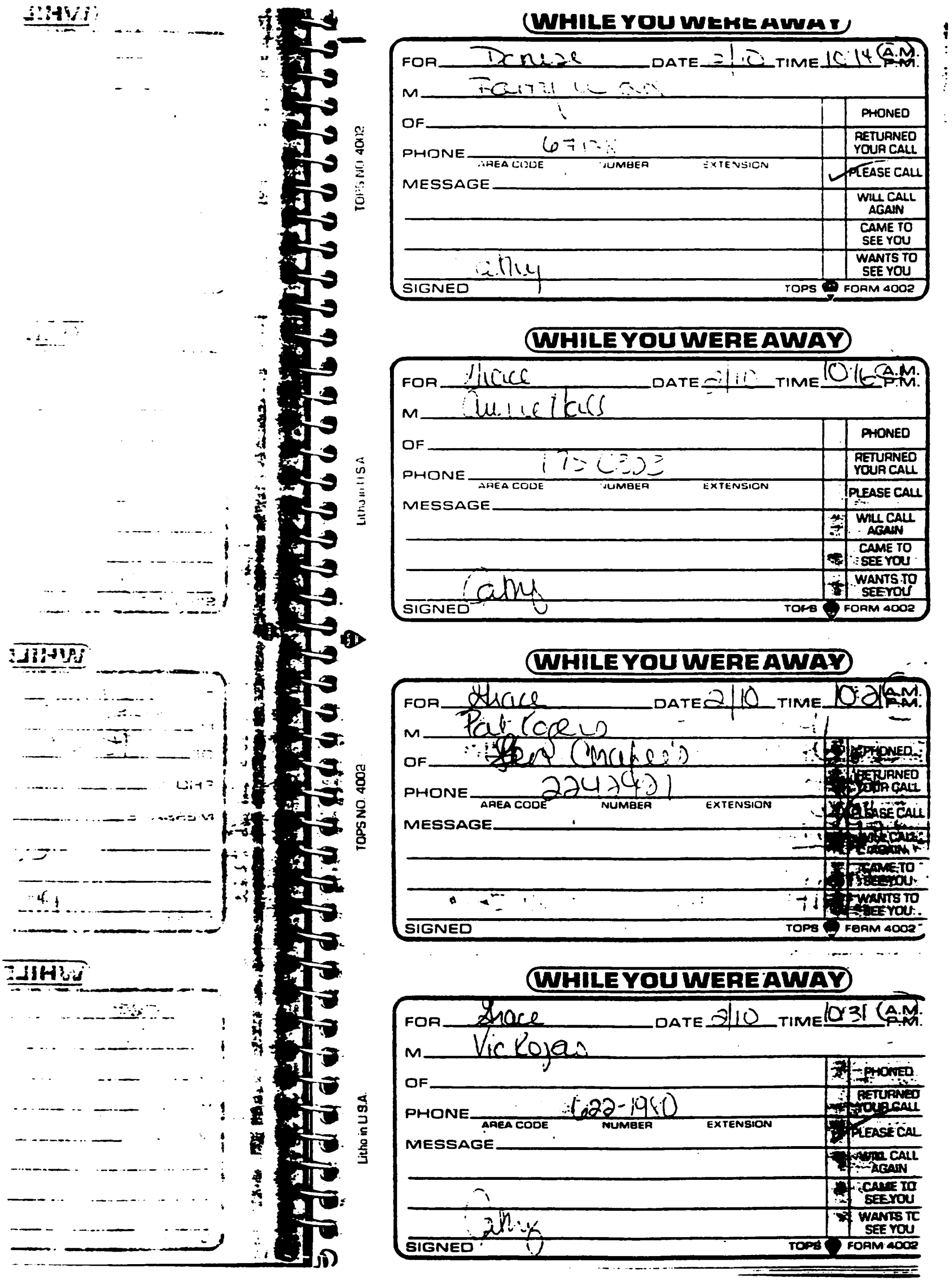
[illegible] SEE YOU

WANTS TO SEE YOU

SIGNED Cathy

URGENT

2003



TOPS NO. 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR Denise DATE 2/10 TIME 10:14 A.M.

M [illegible]

OF

PHONE 67[illegible]

AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED Cathy

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Grace DATE 2/10 TIME 10:16 A.M.

M Annie Hall

OF

PHONE 175-0303

AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED Cathy

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Grace DATE 2/10 TIME 10:21 A.M.

M Pat Rogers

OF Ben Chafee's

PHONE 2247901

AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Grace DATE 2/10 TIME 10:31 A.M.

M Vic Rojas

OF

PHONE 622-1980

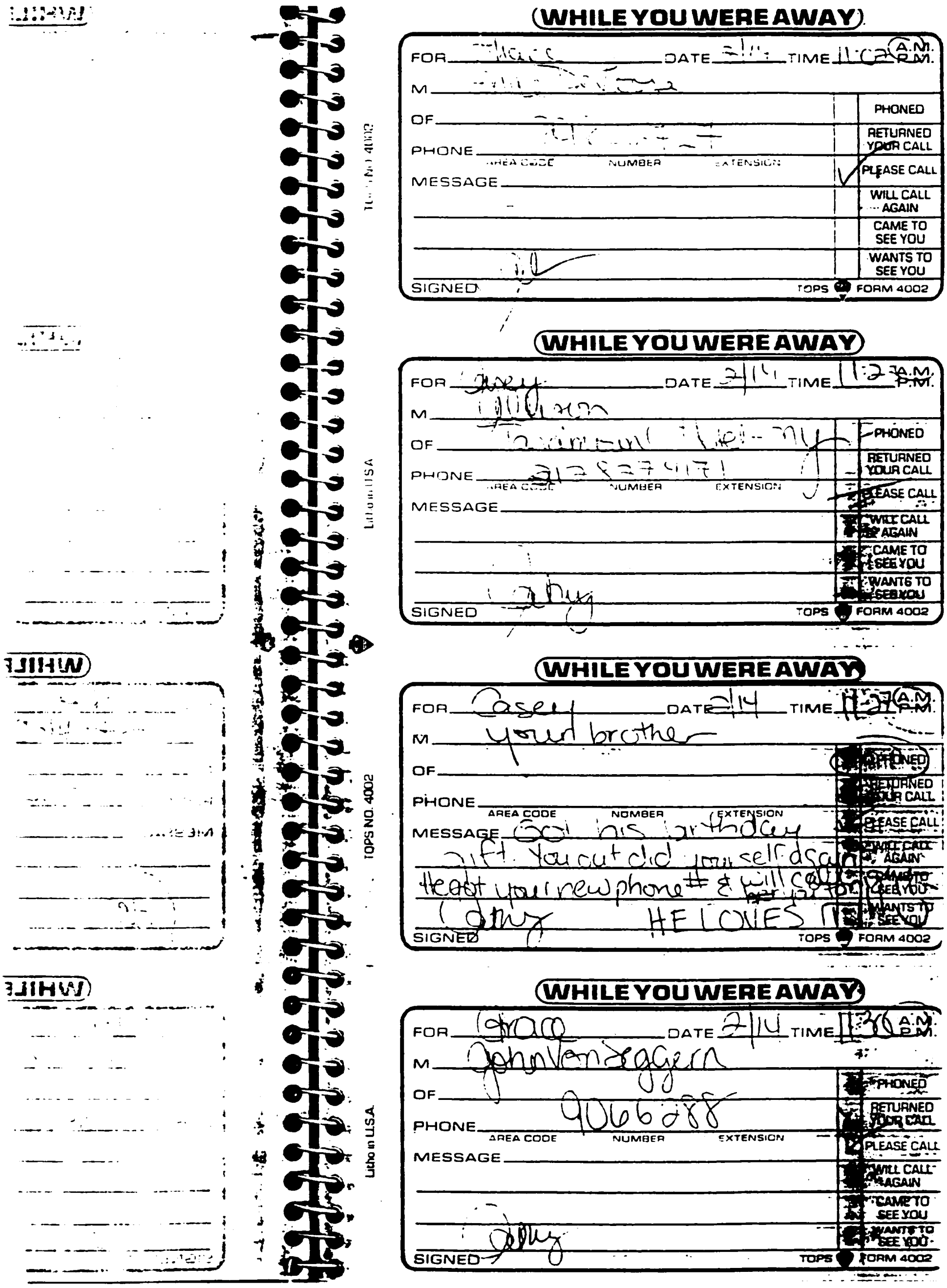
AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED Cathy

TOPS FORM 4002



(WHILE YOU WERE AWAY)

FOR [illegible] DATE 2/14 TIME 11:02 [✓ A.M.] P.M.

M [illegible]

OF

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR [illegible] DATE 2/14 TIME 11:23 A.M. P.M.

M [illegible]

OF [illegible] - NY

PHONE 312 827 4171
AREA CODE NUMBER EXTENSION

MESSAGE

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 2/14 TIME 11:37 [✓ A.M.] P.M.

M your brother

OF

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE Got his birthday gift. You out did yourself again Heard your new phone # & will call you tonight HE LOVES [illegible]

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Grace DATE 2/14 TIME 11:36 A.M. P.M.

M John Vanzeggern

OF

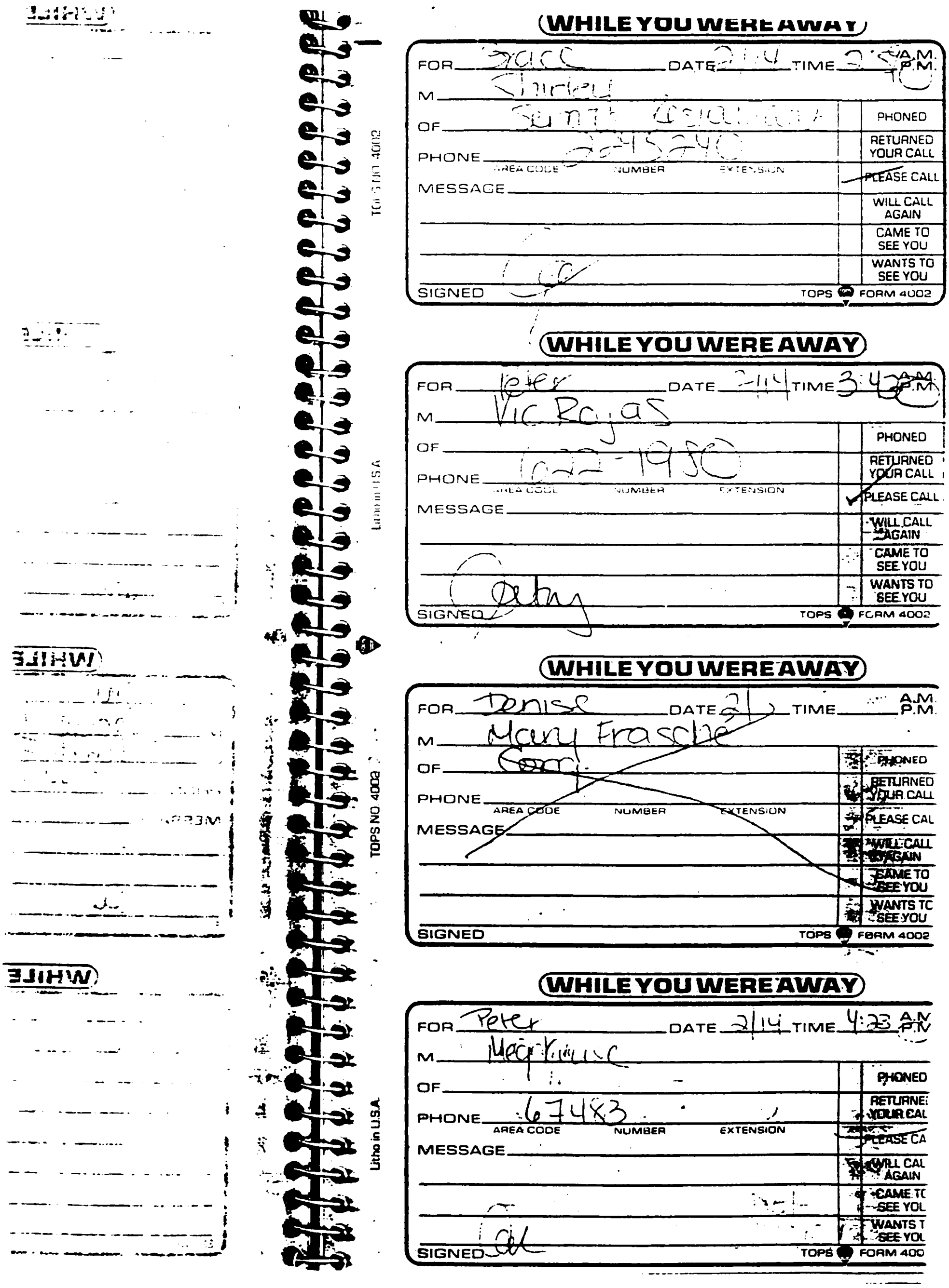
PHONE 9066288
AREA CODE NUMBER EXTENSION

MESSAGE

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED

TOPS FORM 4002



(WHILE YOU WERE AWAY)

FOR Grace DATE 2/14 TIME 3:5 A.M. [✓ P.M.]

M Shirley

OF Smith [illegible]

PHONE 3245240

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 2-14 TIME 3:43 A.M. [✓ P.M.]

M Vic Rojas

OF

PHONE 622-1950

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED Cathy

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR ~~Denise~~ DATE ~~2/1~~ TIME A.M. P.M.

M ~~Mary Frasche~~

OF ~~Sears~~

PHONE

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 2/14 TIME 4:23 A.M. [✓ P.M.]

M Meg Kinne

OF

PHONE 67483

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED Cal

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 400

TOPS NO. 4002 Litho in U.S.A.
]

WHILE YOU WERE AWAY

FOR Pet[illegible] DATE [illegible] TIME 8:35 [✓ A.M.] P.M.

M Joan Affleck-Smith

OF

PHONE 622 0191

AREA CODE NUMBER EXTENSION

MESSAGE President [illegible] have questions [illegible] ~~[illegible]~~ [illegible] rental properties, [illegible] talking [illegible] NY [illegible]

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 2/16 TIME 8:25 [✓ A.M.] P.M.

M Joan Affleck-Smith

OF

PHONE 622 0191

AREA CODE NUMBER EXTENSION

MESSAGE President Clinton is going to NY next wk. The White Hse has requested RTC NY talking points (ie rental properties etc) Thought you could help

SIGNED Cathy

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Casey DATE 2/16 TIME 2:36 A.M. [✓ P.M.]

M Beth McLaine

OF

PHONE

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED Cathy

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Casey Grace DATE 2/16 TIME 2:37 A.M. [✓ P.M.]

M Armando Falcon

OF House Banking

PHONE 225 4247

AREA CODE NUMBER EXTENSION

MESSAGE Bise Policy suggested he call you

SIGNED Cathy

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

TOPS NO 4002

Litho in U.S.A.

(WHILE YOU WERE AWAY)

FOR ______ DATE ______ TIME ______ A.M. P.M.

M ______

OF ______

PHONE ______ AREA CODE NUMBER EXTENSION

MESSAGE ______

SIGNED ______

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR [illegible] DATE [illegible] TIME 10:[illegible] A.M. P.M.

M [illegible] Murphy

OF ______

PHONE 197-3226 AREA CODE NUMBER EXTENSION

MESSAGE ______

SIGNED [illegible]

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

TOPS NO 4002

(WHILE YOU WERE AWAY)

FOR Grace DATE 3/3 TIME 10:51 A.M. P.M.

M Alan Schwartz

OF ______

PHONE 202-344-9674 AREA CODE NUMBER EXTENSION

MESSAGE ______

SIGNED Cathy

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

Litho in U.S.A.

(WHILE YOU WERE AWAY)

FOR Steve DATE 3/13 TIME 11:54 A.M. P.M.

M Cathy Gallagher

OF Sen Frank Lautenberg [illegible]

PHONE 609-757-[illegible] AREA CODE NUMBER EXTENSION

MESSAGE returning your call from

yesterday [illegible]

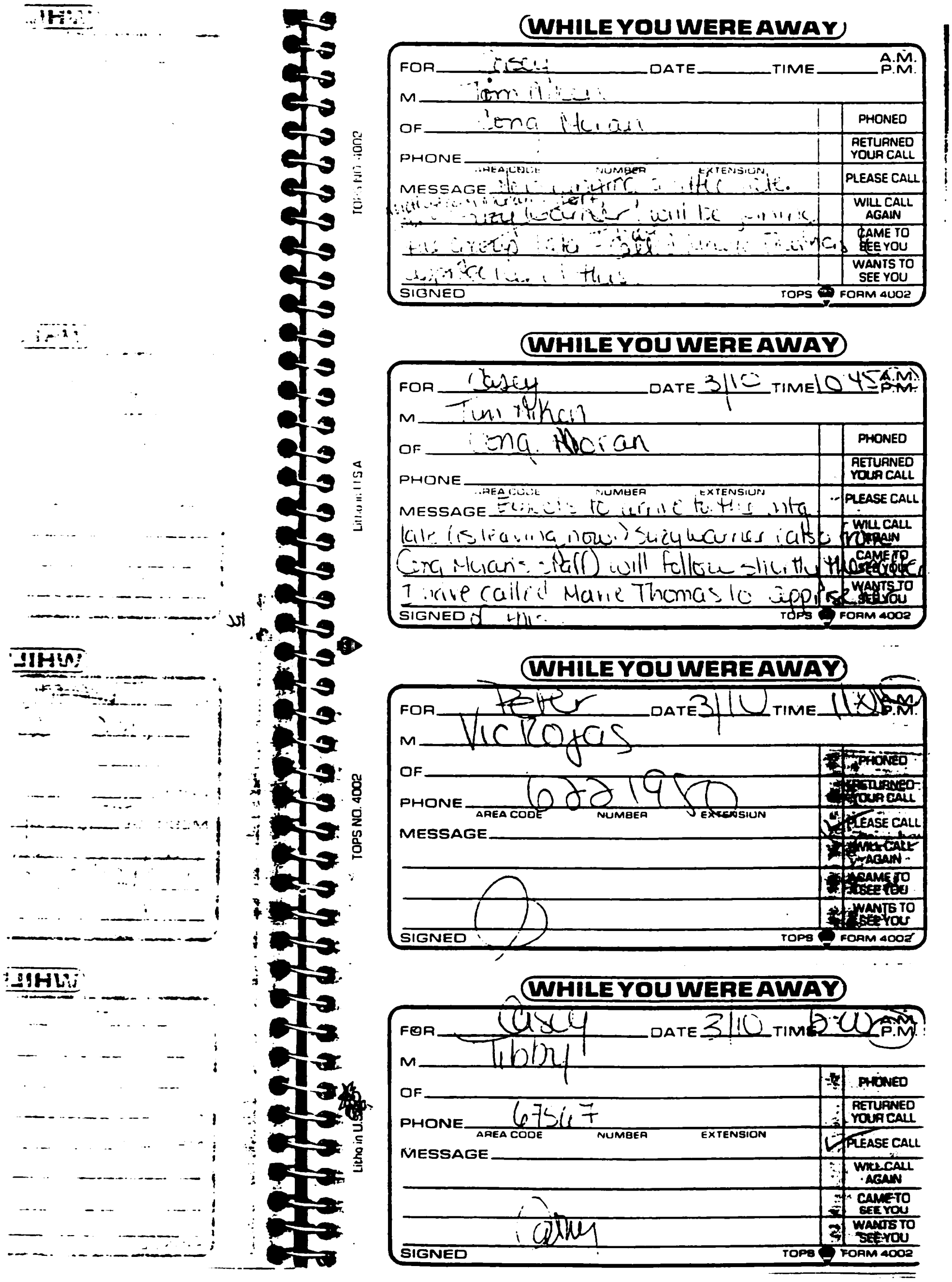
[illegible]

[illegible] call

SIGNED [illegible]

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR Casey DATE TIME A.M. P.M.
M Tim A[illegible]
OF Cong. Moran
PHONE AREA CODE NUMBER EXTENSION
MESSAGE [illegible]
[illegible] Suzy Warner will be [illegible]
[illegible] late [illegible]
[illegible] this.
PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED
TOPS FORM 4002

WHILE YOU WERE AWAY

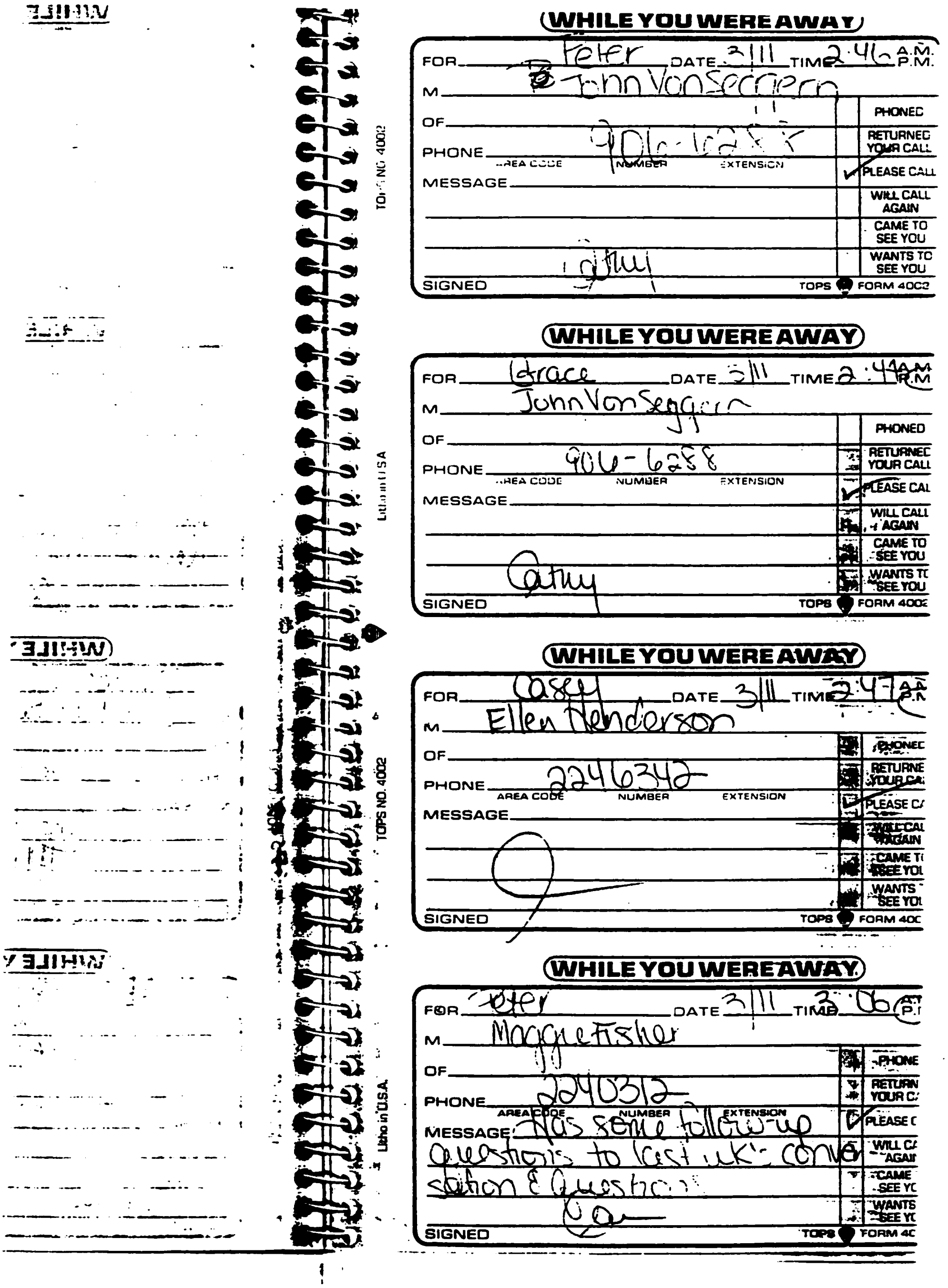
FOR Casey DATE 3/10 TIME 10:45 [✓ A.M.] P.M.
M Tim Aiken
OF Cong. Moran
PHONE AREA CODE NUMBER EXTENSION
MESSAGE Forced to arrive to the mtg.
late (is leaving now) Suzy Warner (also from
Cong Moran's staff) will follow shortly thereafter.
I have called Marie Thomas to apprise.
PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED
TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 3/10 TIME 11:00 [✓ A.M.] P.M.
M Vic Rojas
OF
PHONE 622 1980 AREA CODE NUMBER EXTENSION
MESSAGE
PHONED
RETURNED YOUR CALL
✓ PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED
TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Casey DATE 3/10 TIME 5:00 A.M. [✓ P.M.]
M Libby
OF
PHONE 67567 AREA CODE NUMBER EXTENSION
MESSAGE
Cathy
PHONED
RETURNED YOUR CALL
✓ PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU
SIGNED
TOPS FORM 4002



WHILE YOU WERE AWAY

FOR Peter DATE 3/11 TIME 2:46 A.M. P.M.
M John VonSeggern
OF
PHONE 906-6288
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED Cathy

- PHONED
- RETURNED YOUR CALL
- ✓ PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Grace DATE 3/11 TIME 2:44 A.M. P.M.
M John VonSeggern
OF
PHONE 906-6288
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED Cathy

- PHONED
- RETURNED YOUR CALL
- ✓ PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU

TOPS FORM 400

WHILE YOU WERE AWAY

FOR Casey DATE 3/11 TIME 2:47 A
M Ellen Henderson
OF
PHONE 2246342
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED

- PHONEC
- RETURNE YOUR CA
- ✓ PLEASE C
- WILL CAL AGAIN
- CAME T SEE YOU
- WANTS SEE YO

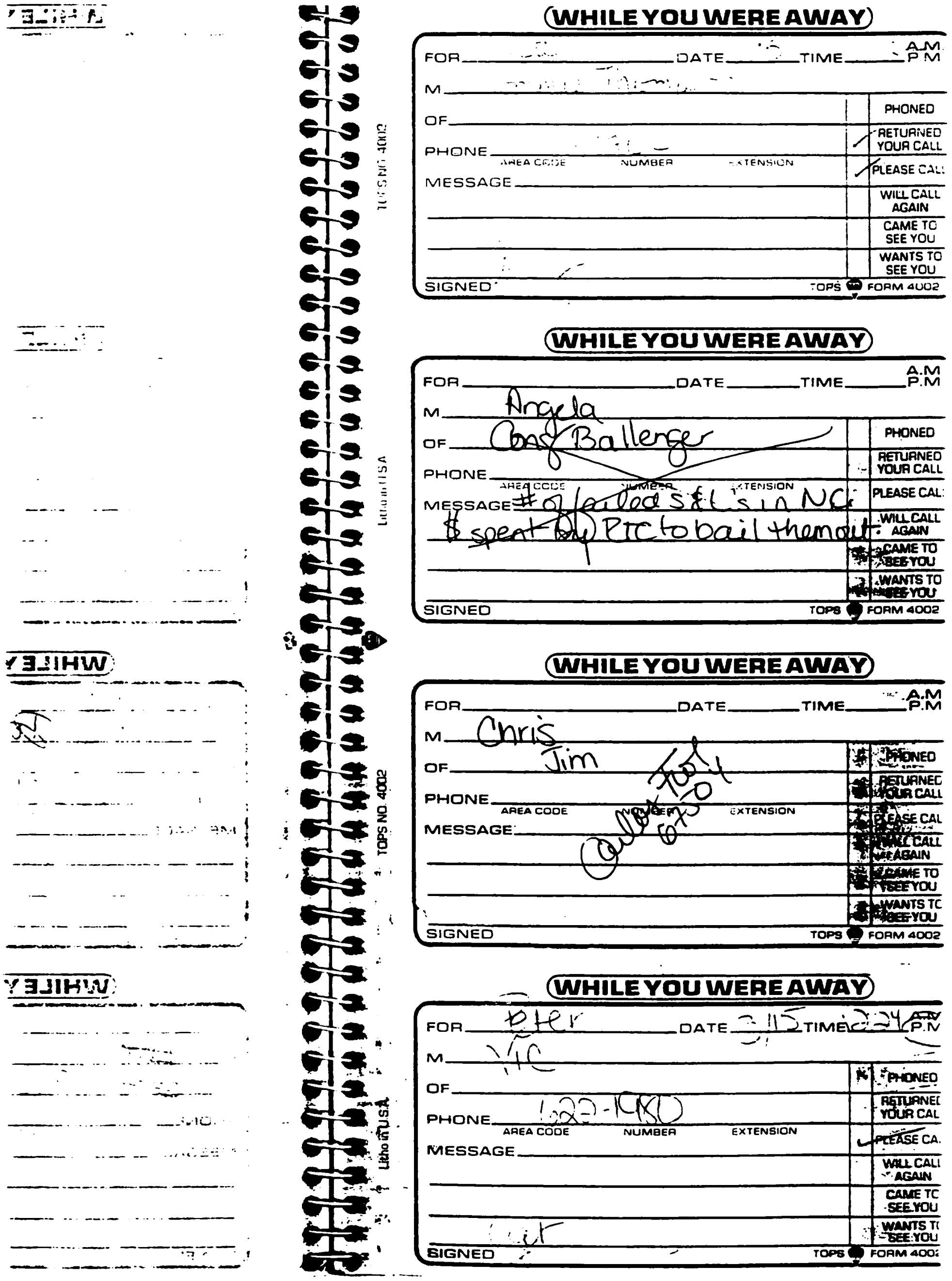
TOPS FORM 400

WHILE YOU WERE AWAY

FOR Peter DATE 3/11 TIME 3:06 [✓ P.]
M Maggie Fisher
OF
PHONE 2240312
AREA CODE NUMBER EXTENSION
MESSAGE Has some follow-up questions to last wk's conversation & question
SIGNED Ca

- PHONE
- RETURN YOUR C
- ✓ PLEASE C
- WILL C AGAI
- CAME SEE YO
- WANTS SEE YO

TOPS FORM 40



WHILE YOU WERE AWAY

FOR ______ DATE ______ TIME ______ A.M. P.M.
M [illegible]
OF ______
PHONE ______ AREA CODE NUMBER EXTENSION
MESSAGE ______
SIGNED ______

PHONED
✓ RETURNED YOUR CALL
✓ PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR ______ DATE ______ TIME ______ A.M P.M
M Angela
OF Cong Ballenger
PHONE ______ AREA CODE NUMBER EXTENSION
MESSAGE #9 failed S&L's in NC
$ spent by RTC to bail them out
SIGNED ______

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR ______ DATE ______ TIME ______ A.M P.M
M Chris
OF Jim
PHONE ______ AREA CODE NUMBER EXTENSION
MESSAGE ______
Callen Fed 6730 4
SIGNED ______

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

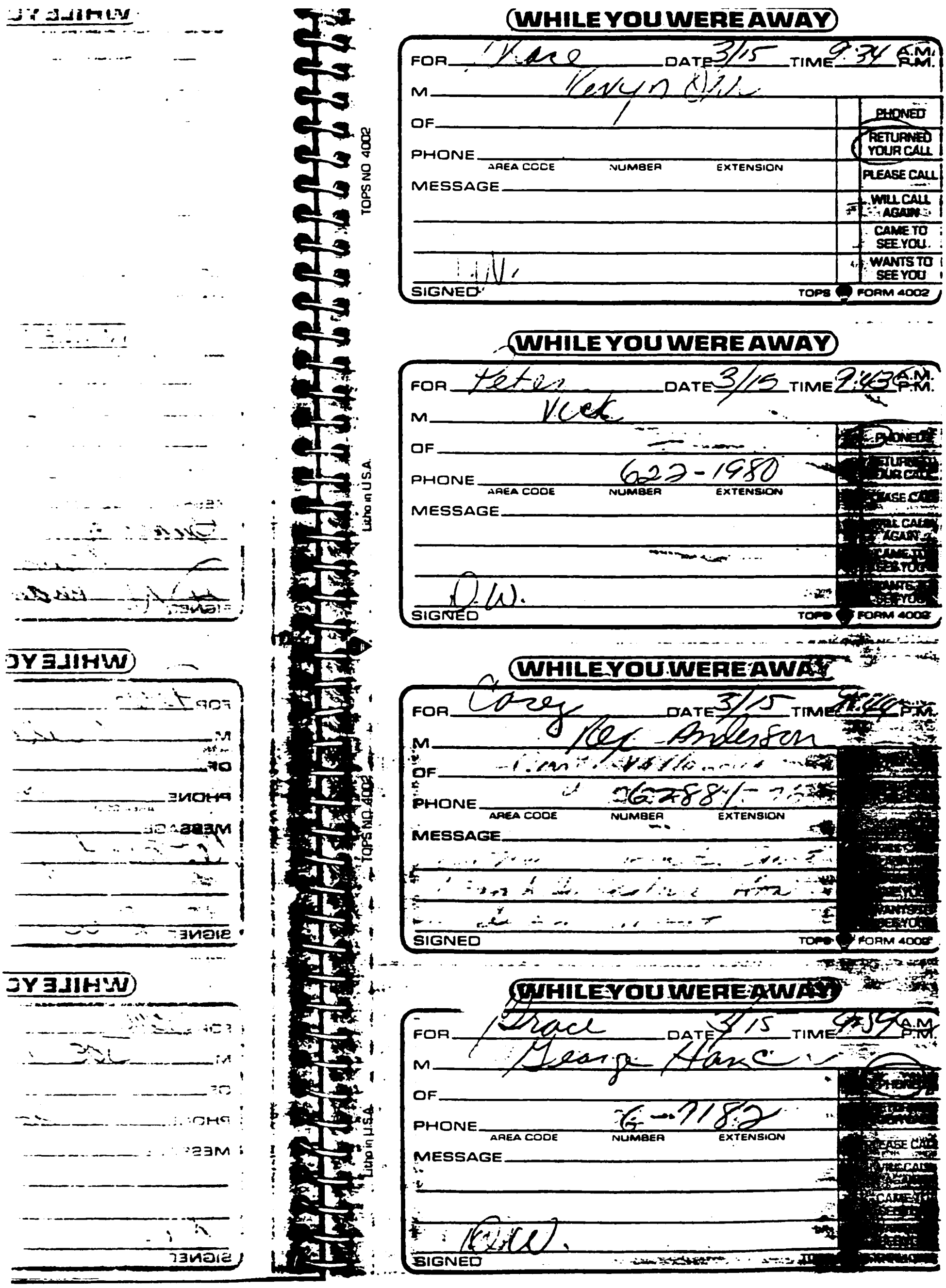
TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 3/15 TIME 2:24 A.M P.M
M Vic
OF ______
PHONE 622-1980 AREA CODE NUMBER EXTENSION
MESSAGE ______
SIGNED ______

PHONED
RETURNED YOUR CALL
✓ PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR Vane DATE 3/15 TIME 9:34 A.M. P.M.

M Kevyn Dill

OF /

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED [illegible]

PHONED
[✓ RETURNED YOUR CALL]
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 3/15 TIME 9:43 A.M. P.M.

M Vick

OF

PHONE 622-1980
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED D.W.

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Corey DATE 3/15 TIME 9:44 P.M.

M Rex Anderson

OF [illegible]

PHONE 262881[illegible]
AREA CODE NUMBER EXTENSION

MESSAGE [illegible]

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Grace DATE 3/15 TIME 9:59 A.M. P.M.

M George Hance

OF

PHONE 6-7182
AREA CODE NUMBER EXTENSION

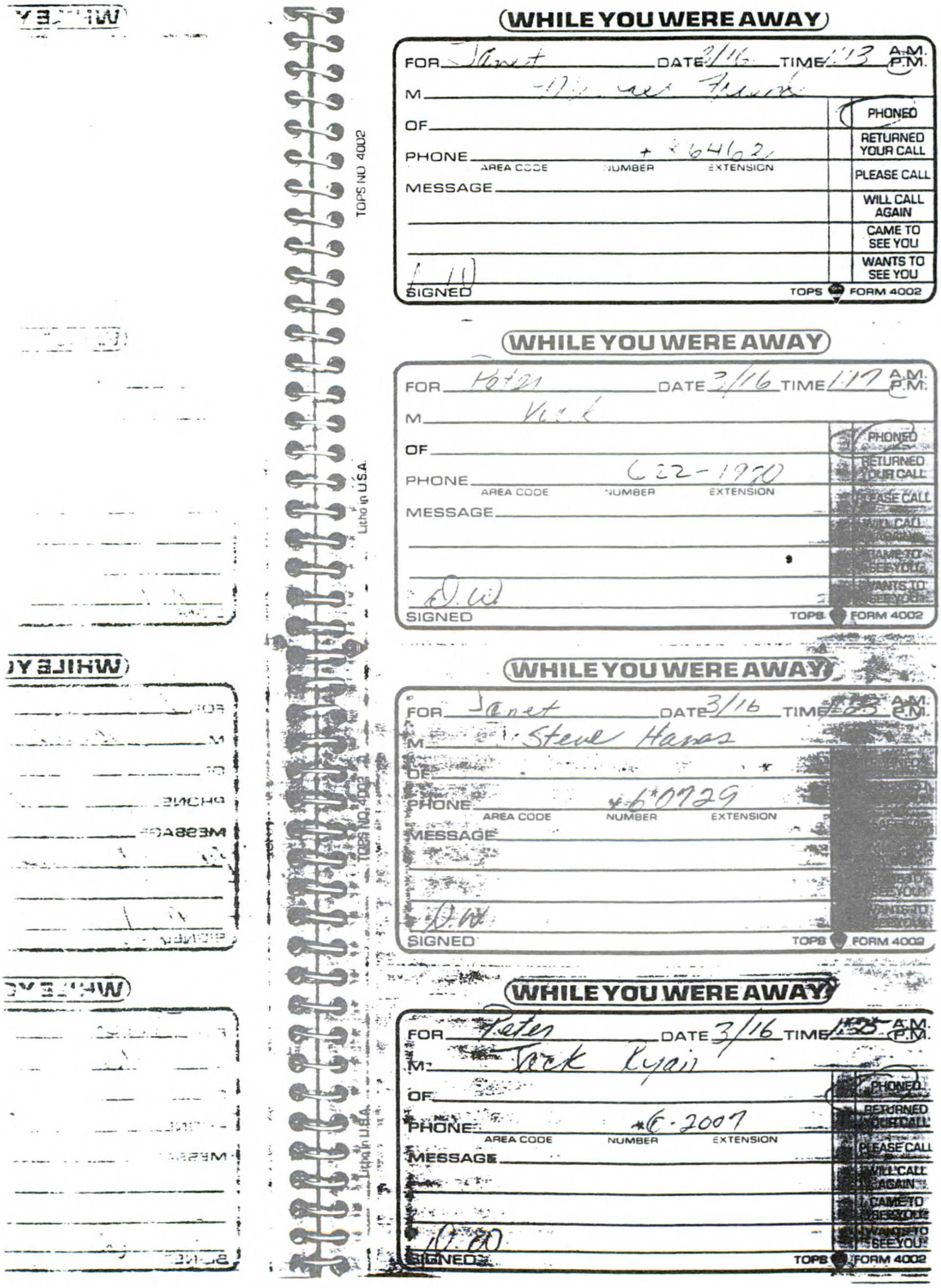
MESSAGE

SIGNED D.W.

[✓ PHONED]
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU

TOPS NO 4002

Litho in U.S.A.



TOPS NO 4002

Litho in U.S.A.

(WHILE YOU WERE AWAY)

FOR Janet DATE 3/16 TIME 1:13 A.M. [✓ P.M.]

M [illegible]

OF

PHONE + 864621
AREA CODE NUMBER EXTENSION

MESSAGE

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED D.W.

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 3/16 TIME 1:17 A.M. [✓ P.M.]

M Vick

OF

PHONE 622-1980
AREA CODE NUMBER EXTENSION

MESSAGE

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED D.W.

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Janet DATE 3/16 TIME [illegible] A.M. [✓ P.M.]

M Steve Hanas

OF

PHONE +6*0729
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED D.W.

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 3/16 TIME 1:35 A.M. [✓ P.M.]

M Jack Ryan

OF

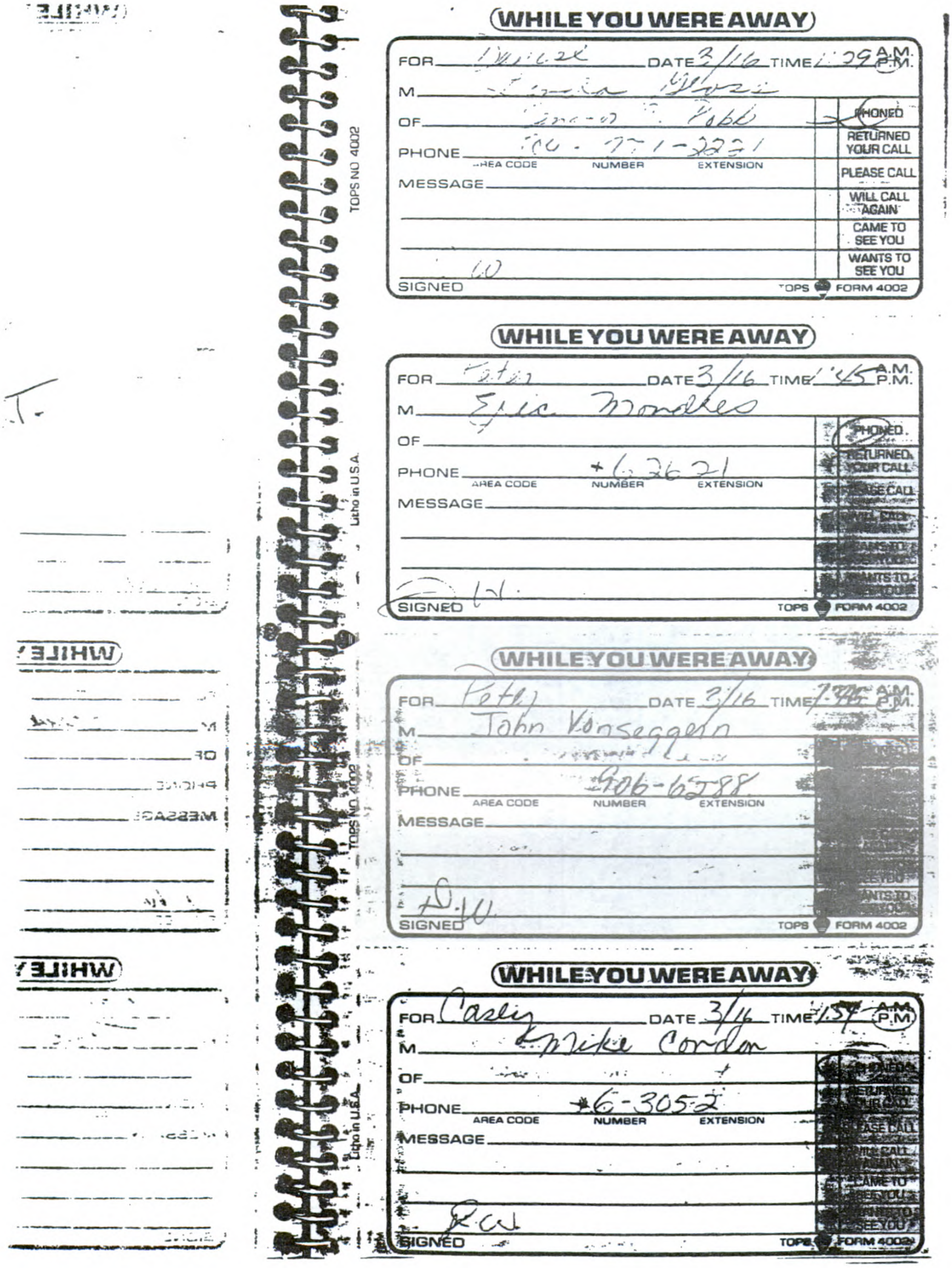
PHONE *6-2007
AREA CODE NUMBER EXTENSION

MESSAGE

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED D.W.

TOPS FORM 4002



(WHILE YOU WERE AWAY)

FOR Duncan DATE 3/16 TIME 1:29 A.M. [✓ P.M.]

M [illegible]

OF [illegible] Robb

PHONE [illegible] - 771 - 2221
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED W

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 3/16 TIME 1:45 A.M. P.M.

M Eric Mondkes

OF

PHONE +6-2621
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED W.

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Pete DATE 3/16 TIME 1:35 A.M. P.M.

M John Vonseggern

OF

PHONE 906-6588
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED D.W.

WANTS TO SEE YOU

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 3/16 TIME 1:57 A.M. [✓ P.M.]

M Mike Cordon

OF

PHONE +6-3052
AREA CODE NUMBER EXTENSION

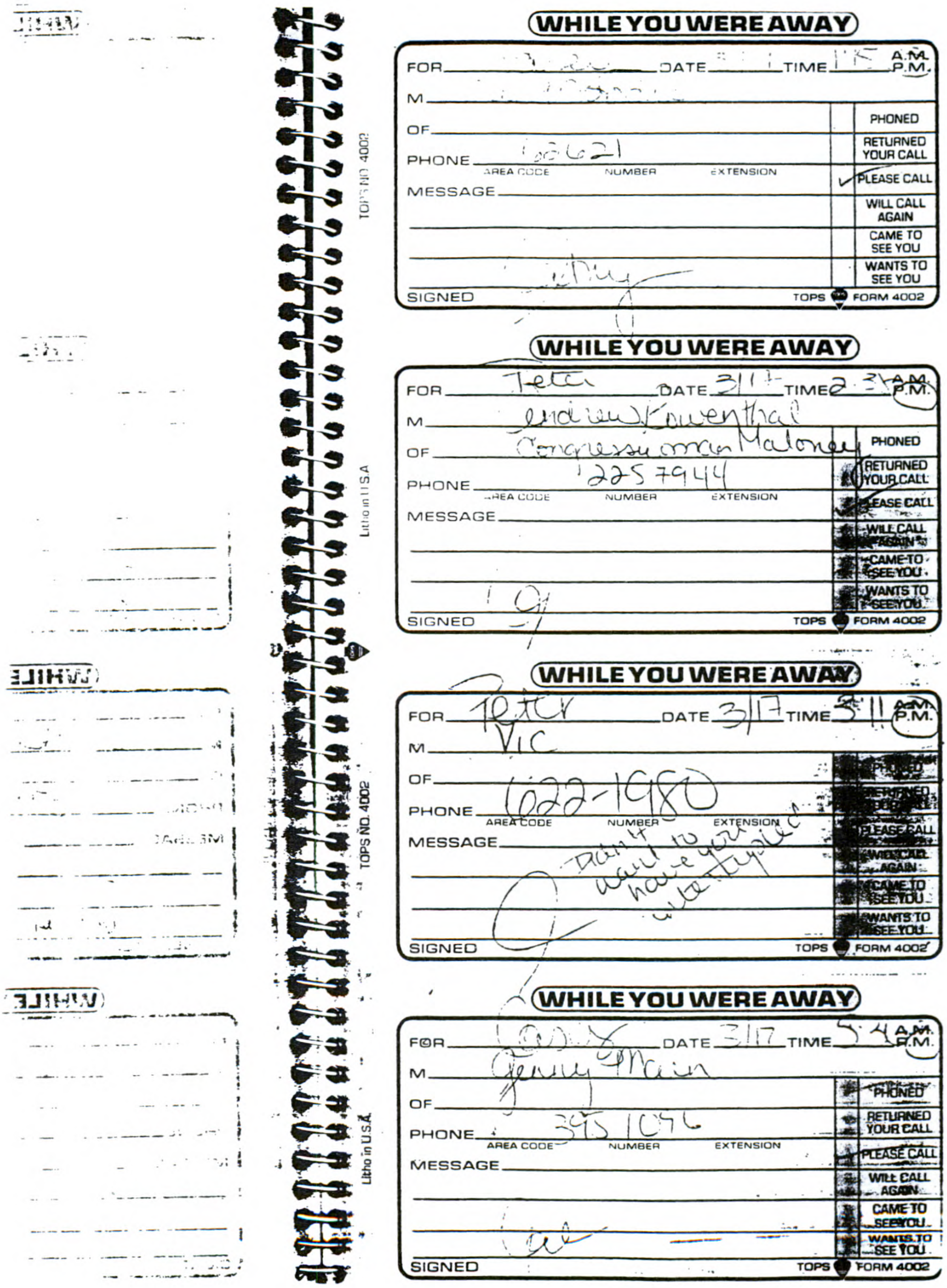
MESSAGE

SIGNED RW

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

TOPS NO 4002 Litho in U.S.A.



TOPS NO. 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME 1:15 A.M. [✓ P.M.]

M [illegible]

OF

PHONE [illegible]6621
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED [illegible]

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 3/17 TIME 2:35 A.M. [✓ P.M.]

M Andrew Lowenthal

OF Congressman Maloney

PHONE 225 7944
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED g

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 3/17 TIME 3:11 A.M. [✓ P.M.]

M Vic

OF

PHONE 622-1980
AREA CODE NUMBER EXTENSION

MESSAGE Don't want to have your wife typical

SIGNED g

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR [illegible] DATE 3/17 TIME 5:4 A.M. [✓ P.M.]

M Jenny Main

OF

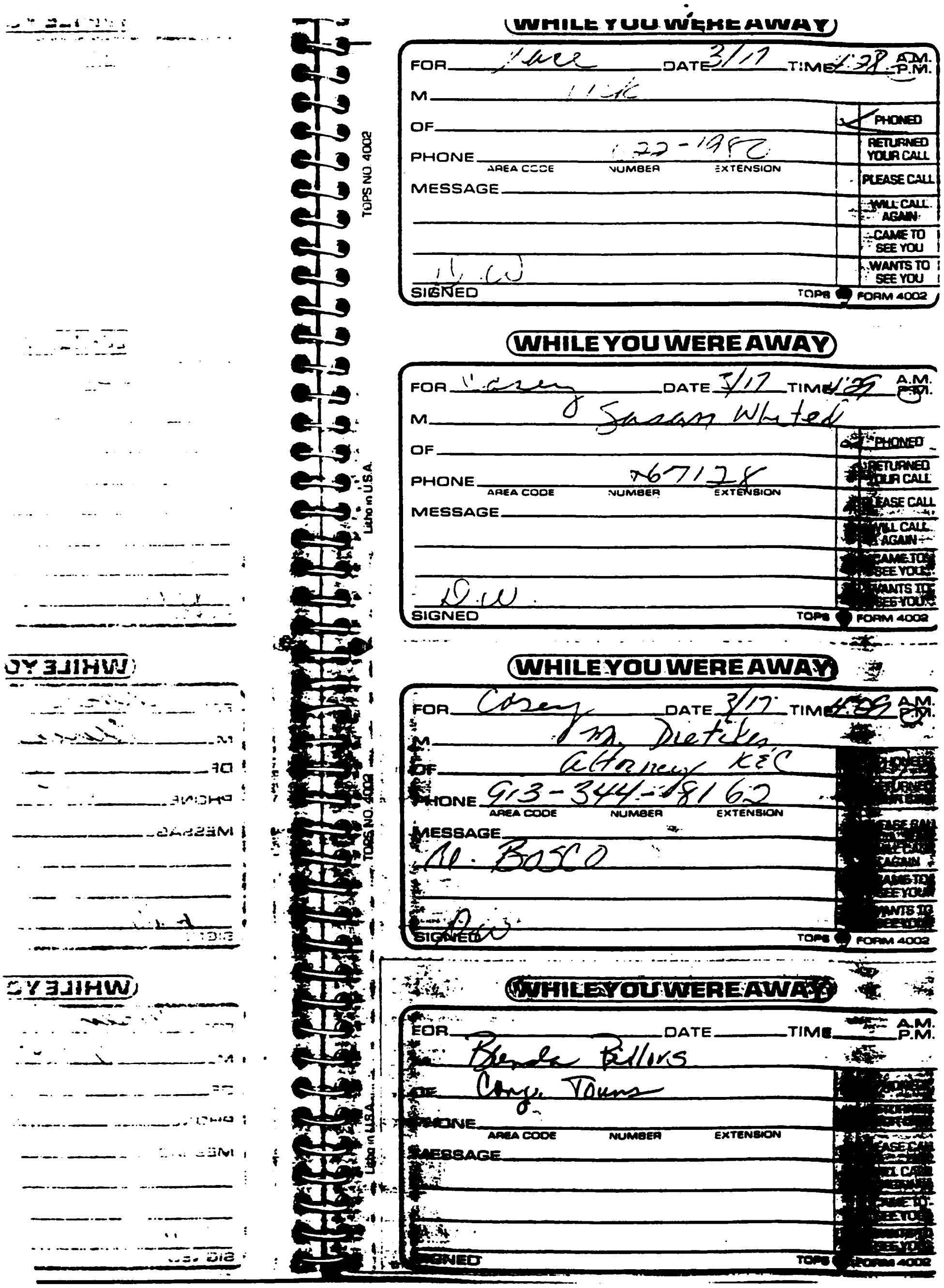
PHONE 395 1046
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED Cal

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR Jace DATE 3/17 TIME 1:38 A.M. [✓ P.M.]

M [illegible]

OF

PHONE 22-1980

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED D.W.

☑ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Corey DATE 3/17 TIME 1:25 A.M. [✓ P.M.]

M & Susan Whited

OF

PHONE x67128

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED D.W.

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Corey DATE 3/17 TIME 4:09 A.M. [✓ P.M.]

M Mr. Dietiker

OF attorney KEC

PHONE 913-344-8162

AREA CODE NUMBER EXTENSION

MESSAGE M. Bosco

SIGNED D.W.

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR DATE TIME A.M. P.M.

M Brenda Bellins

OF Cong. Towns

PHONE

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

TOPS FORM 4002

TOPS NO 4002

Litho in U.S.A.

(WHILE YOU WERE AWAY)

FOR [illegible] DATE [illegible]/17 TIME 5:02 A.M. [✓ P.M.]

M [illegible]

OF

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 3/17 TIME 5:24 A.M. [✓ P.M.]

M Karen Hoggatt

OF

PHONE 602 - 494 - 8321
AREA CODE NUMBER EXTENSION

MESSAGE

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 3/17 TIME 5:35 A.M. [✓ P.M.]

M Gail Biblin

OF

PHONE 225-4901
AREA CODE NUMBER EXTENSION

MESSAGE

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 3/18 TIME 8:16 [✓ A.M.] P.M.

M John VanGessel

OF

PHONE 906-6288
AREA CODE NUMBER EXTENSION

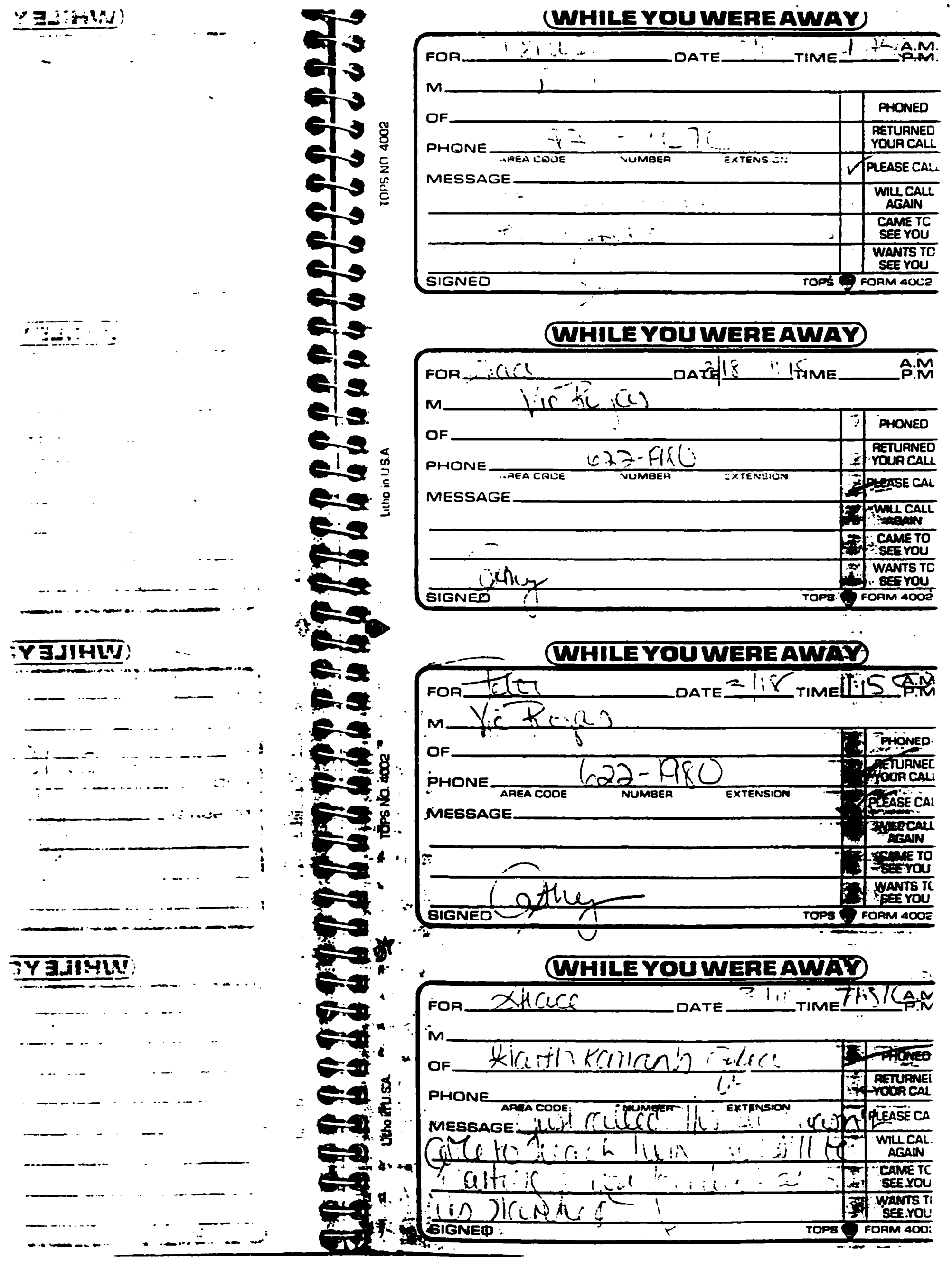
MESSAGE

[✓ PHONED]
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME 1:45 A.M. P.M.

M

OF

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

	PHONED
	RETURNED YOUR CALL
✓	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR [illegible] DATE 2/18 11:15 TIME A.M P.M

M Vic Rogers

OF

PHONE 622-1980
AREA CODE NUMBER EXTENSION

MESSAGE

PHONED

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

SIGNED Cathy

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 2/18 TIME 11:15 A.M. P.M

M Vic Rogers

OF

PHONE 622-1980
AREA CODE NUMBER EXTENSION

MESSAGE

PHONED

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

SIGNED Cathy

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Grace DATE [illegible] TIME 7:45 A.M P.M

M

OF Keith Kennan's Office

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE [illegible]
[illegible]
[illegible]
[illegible]

~~PHONED~~

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

TOPS NO 4002

Litho in U.S.A.

(WHILE YOU WERE AWAY)

FOR Peter DATE 3/18 TIME 7:17 [✓ A.M.] P.M.

M John Van[illegible]

OF

PHONE [illegible]-[illegible]288

AREA CODE NUMBER EXTENSION

MESSAGE

[✓ PHONED]

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Casey DATE 3/18 TIME 8:53 [✓ A.M.] P.M.

M [illegible]

OF

PHONE [illegible]-[illegible]

AREA CODE NUMBER EXTENSION

MESSAGE

✓ PHONED

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Peter DATE 3/18 TIME 8:38 [✓ A.M.] P.M.

M Eric Mondres

OF

PHONE x 62621

AREA CODE NUMBER EXTENSION

MESSAGE

PHONED

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

CAME TO SEE YOU

WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002

(WHILE YOU WERE AWAY)

FOR Bret DATE 3/18 TIME 8:38 [✓ A.M.] P.M.

M Michael French

OF

PHONE #8642

AREA CODE NUMBER EXTENSION

MESSAGE

✓ PHONED

RETURNED YOUR CALL

PLEASE CALL

WILL CALL AGAIN

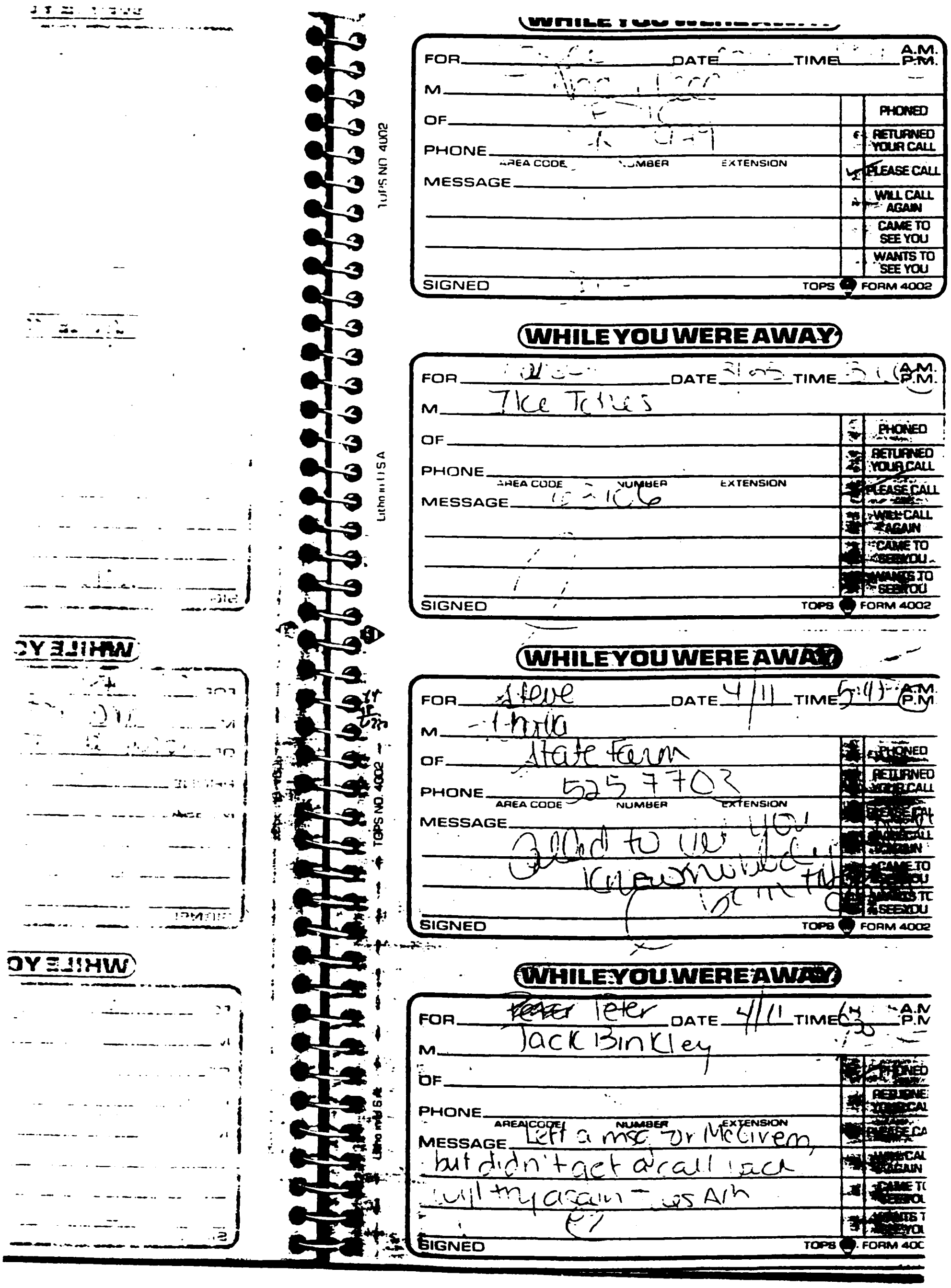
CAME TO SEE YOU

WANTS TO SEE YOU

D.W.

SIGNED

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME [illegible] A.M. P.M.

M [illegible]

OF [illegible]

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME 5:1 A.M. [✓ P.M.]

M Ike Tates

OF

PHONE
AREA CODE NUMBER EXTENSION

MESSAGE [illegible]

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Steve DATE 4/11 TIME 5:41 A.M. [✓ P.M.]

M Linda

OF State Farm

PHONE 525 7703
AREA CODE NUMBER EXTENSION

MESSAGE Called to see you [illegible]

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR ~~Peter~~ Peter DATE 4/11 TIME 6:30 A.M. P.M.

M Jack Binkley

OF

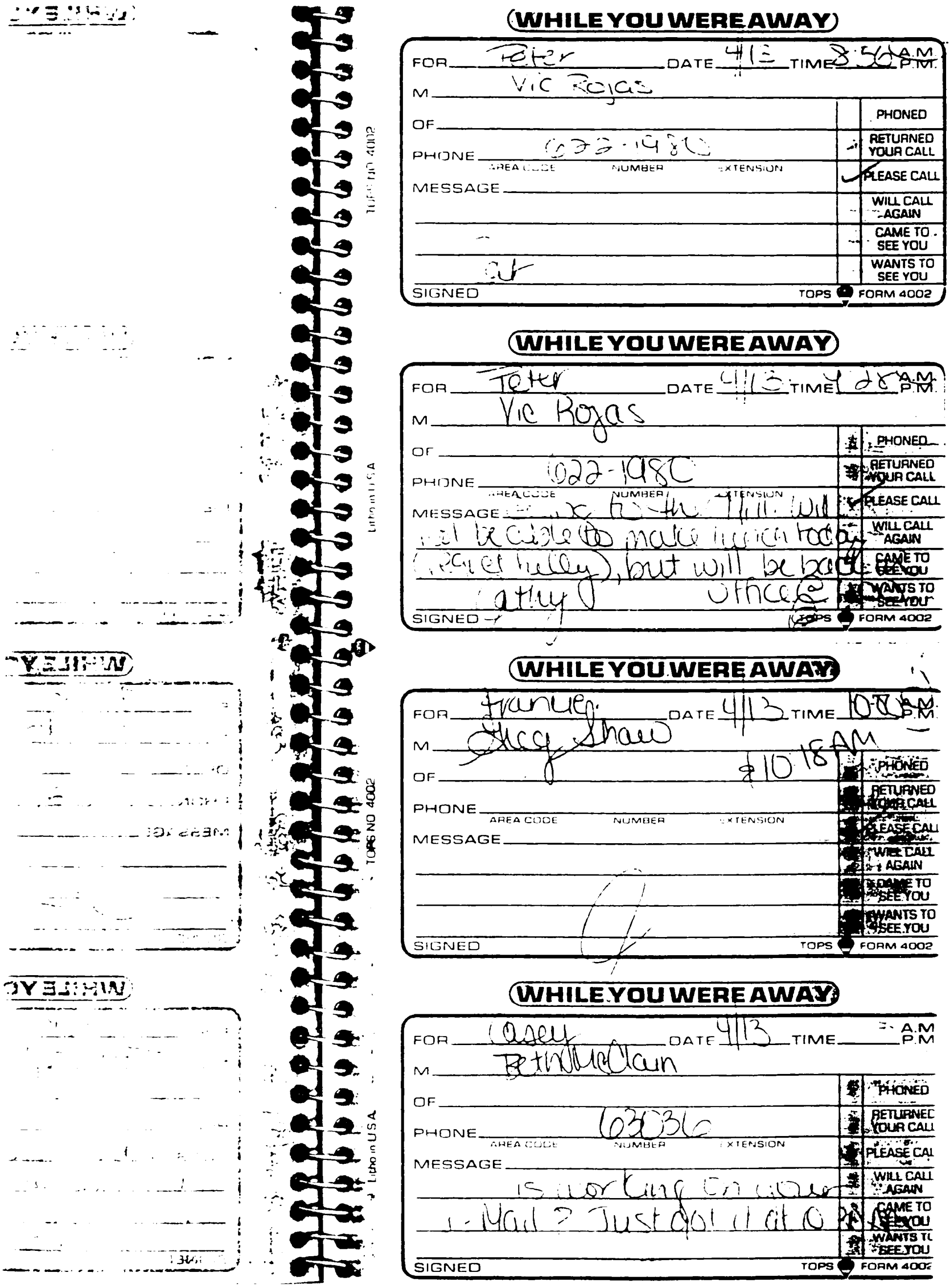
PHONE
AREA CODE NUMBER EXTENSION

MESSAGE Left a msg. Dr McGivern, but didn't get a call back will try again — was [illegible]

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR Peter DATE 4/13 TIME 8:56 A.M.
M Vic Rojas
OF
PHONE 622-1980
AREA CODE NUMBER EXTENSION
MESSAGE
cj
SIGNED

	PHONED
	RETURNED YOUR CALL
✓	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 4/13 TIME 4:28 P.M.
M Vic Rojas
OF
PHONE 622-1980
AREA CODE NUMBER EXTENSION
MESSAGE [illegible] to the [illegible] will not be able to make [illegible] today ([illegible] valley), but will be back at [illegible] office
Cathy
SIGNED

	PHONED
	RETURNED YOUR CALL
✓	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Francie DATE 4/13 TIME 10:08 A.M.
M Greg Shaw
@10 18 AM
OF
PHONE
AREA CODE NUMBER EXTENSION
MESSAGE
SIGNED

	PHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

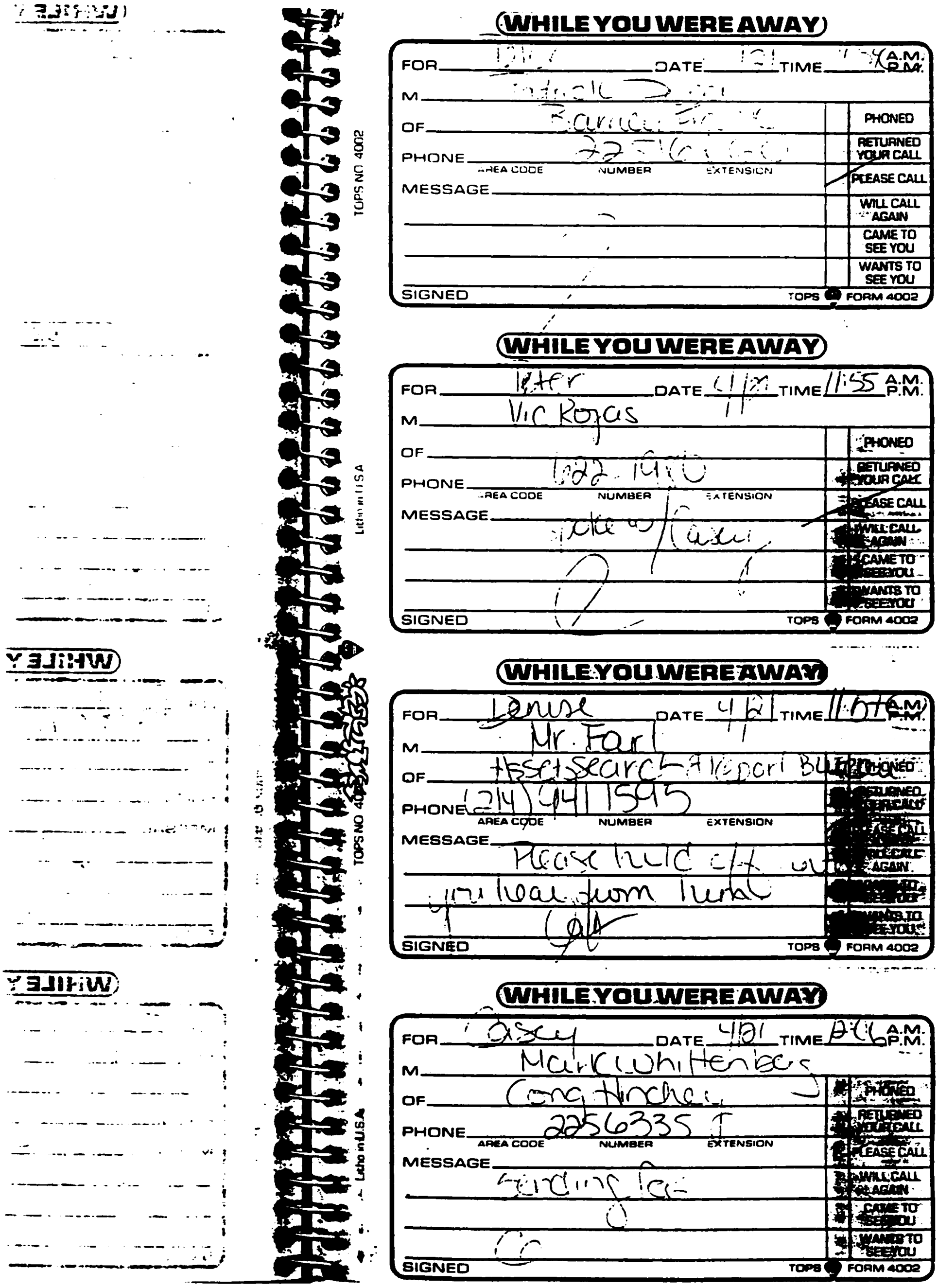
TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Casey DATE 4/13 TIME A.M. P.M.
M Beth McClain
OF
PHONE 63036
AREA CODE NUMBER EXTENSION
MESSAGE
is working on [illegible]
- Mail? Just got it at 6 PM
SIGNED

	PHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

TOPS FORM 4002



TOPS NO 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME [illegible] A.M. P.M.

M [illegible]

OF [illegible]

PHONE [illegible]
AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 4/21 TIME 11:55 A.M. P.M.

M Vic Rojas

OF

PHONE 622-1490
AREA CODE NUMBER EXTENSION

MESSAGE Spoke w/ Casey

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☑ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Denise DATE 4/21 TIME 11:07 [✓ A.M.] P.M.

M Mr. Earl

OF Asset Search & Report Bureau

PHONE (214) 941 1595
AREA CODE NUMBER EXTENSION

MESSAGE Please hold c/f until you hear from him

SIGNED

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Casey DATE 4/21 TIME 2:16 A.M. P.M.

M Mark Whittenberg

OF Cong. Hinchey

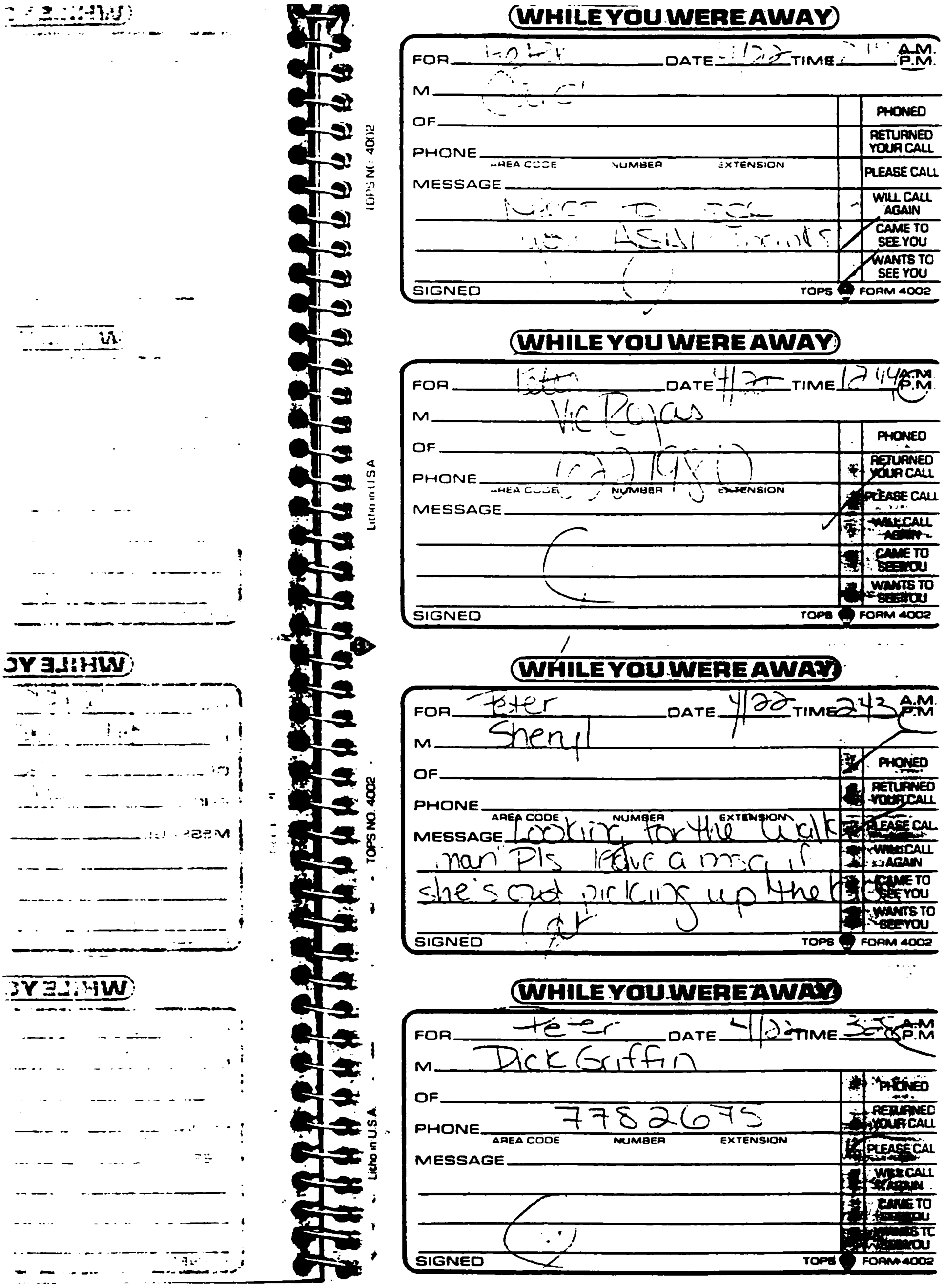
PHONE 225-6335
AREA CODE NUMBER EXTENSION

MESSAGE Sending fax

SIGNED

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002



WHILE YOU WERE AWAY

FOR Peter DATE 4/22 TIME 2:1[illegible] A.M. [✓ P.M.]
M [illegible]
OF
PHONE
AREA CODE NUMBER EXTENSION
MESSAGE Need to see [illegible]
[illegible]

	PHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
✓	CAME TO SEE YOU
✓	WANTS TO SEE YOU

SIGNED C
TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 4/22 TIME 12:44 A.M. [✓ P.M.]
M Vic Rojas
OF
PHONE [illegible]
AREA CODE NUMBER EXTENSION
MESSAGE

	PHONED
	RETURNED YOUR CALL
✓	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

SIGNED C
TOPS FORM 4002

WHILE YOU WERE AWAY

FOR Peter DATE 4/22 TIME 2:43 A.M. [✓ P.M.]
M Sheryl
OF
PHONE
AREA CODE NUMBER EXTENSION
MESSAGE Looking for the walk man Pls leave a msg if she's out picking up the [illegible] car

✓	PHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

SIGNED
TOPS FORM 4002

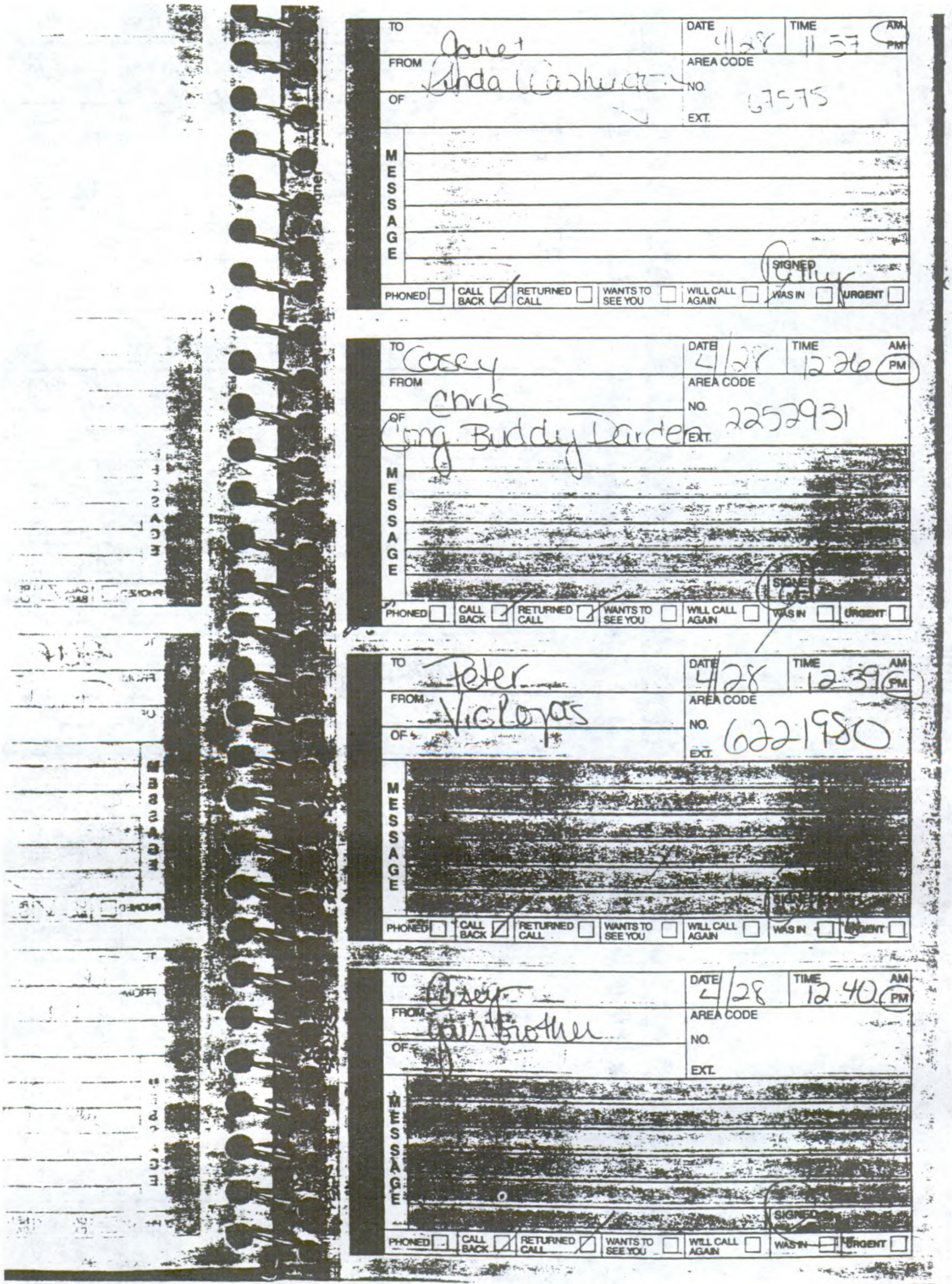
WHILE YOU WERE AWAY

FOR Peter DATE 4/22 TIME 3:35 A.M. P.M.
M Dick Griffin
OF
PHONE 778 2675
AREA CODE NUMBER EXTENSION
MESSAGE

	PHONED
	RETURNED YOUR CALL
	PLEASE CALL
	WILL CALL AGAIN
	CAME TO SEE YOU
	WANTS TO SEE YOU

SIGNED C
TOPS FORM 4002

TOPS NO. 4002 Litho in U.S.A.

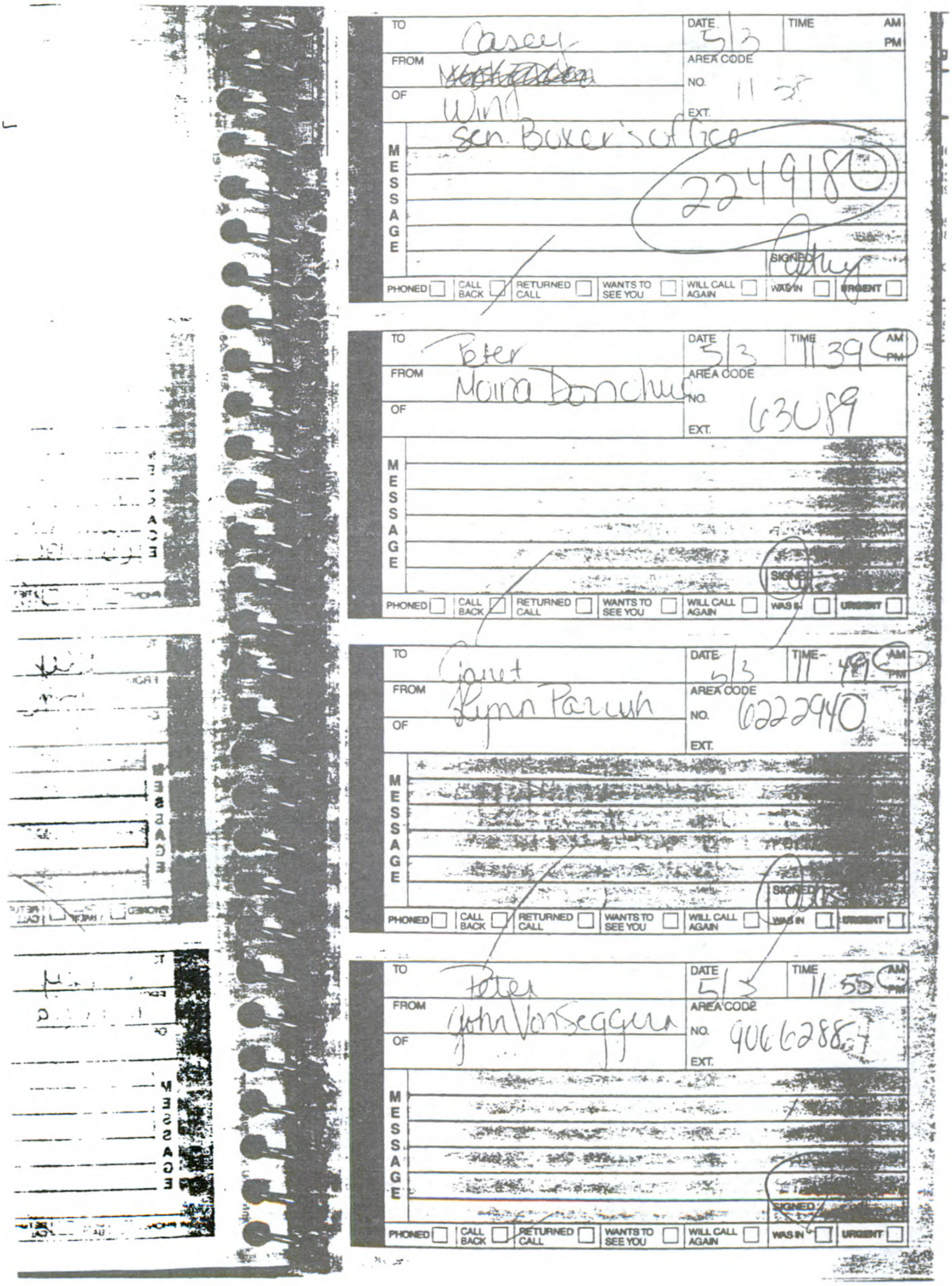


TO Janet
DATE 4/28 TIME 11 57 [✓ AM] PM
FROM Linda Washington
AREA CODE
OF
NO. 67575
EXT.
MESSAGE
SIGNED Cathy
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Corey
DATE 4/28 TIME 12 26 AM [✓ PM]
FROM Chris
AREA CODE
OF Cong. Buddy Darden
NO. 2252931
EXT.
MESSAGE [redacted]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☑ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 4/28 TIME 12 39 AM [✓ PM]
FROM Vic Popas
AREA CODE
OF
NO. 6221980
EXT.
MESSAGE [redacted]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Corey
DATE 4/28 TIME 12 40 AM [✓ PM]
FROM your brother
AREA CODE
OF
NO.
EXT.
MESSAGE [redacted]
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☑ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐



TO Casey
DATE 5/3
TIME AM PM
FROM [redacted]
AREA CODE
NO. 11 35
OF Wind
EXT.
MESSAGE sen. Boxer's office
224 9180
SIGNED Cathy
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 5/3
TIME 11 39 [✓ AM] PM
FROM Moira Donohue
AREA CODE
NO.
OF
EXT. 63089
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Janet
DATE 5/3
TIME 11 49 [✓ AM] PM
FROM Lynn Parrish
AREA CODE
NO. 6222940
OF
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 5/3
TIME 11 55 [✓ AM] PM
FROM John VonSeggern
AREA CODE
NO. 9066288
OF
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Casey DATE 5/5 TIME 12 49 AM [✓ PM]

FROM Dawn AREA CODE

OF your roomie NO. 5443526

EXT.

MESSAGE

SIGNED

PHONED ☐ CALL BACK ☒ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter DATE 5/5 TIME 12 55 AM [✓ PM]

FROM Tom Hindes AREA CODE

OF NO.

EXT.

MESSAGE

SIGNED

PHONED ☐ CALL BACK ☒ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Steve DATE 5/5 TIME 1:18 AM [✓ PM]

FROM John Fees AREA CODE

OF ASU NO. 602

EXT. 965 5330

MESSAGE Materials were sent you overnight. Can [illegible] make it this Sat

SIGNED

PHONED ☐ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter DATE 5/5 TIME 1:13 AM [✓ PM]

FROM Vic Rojas AREA CODE

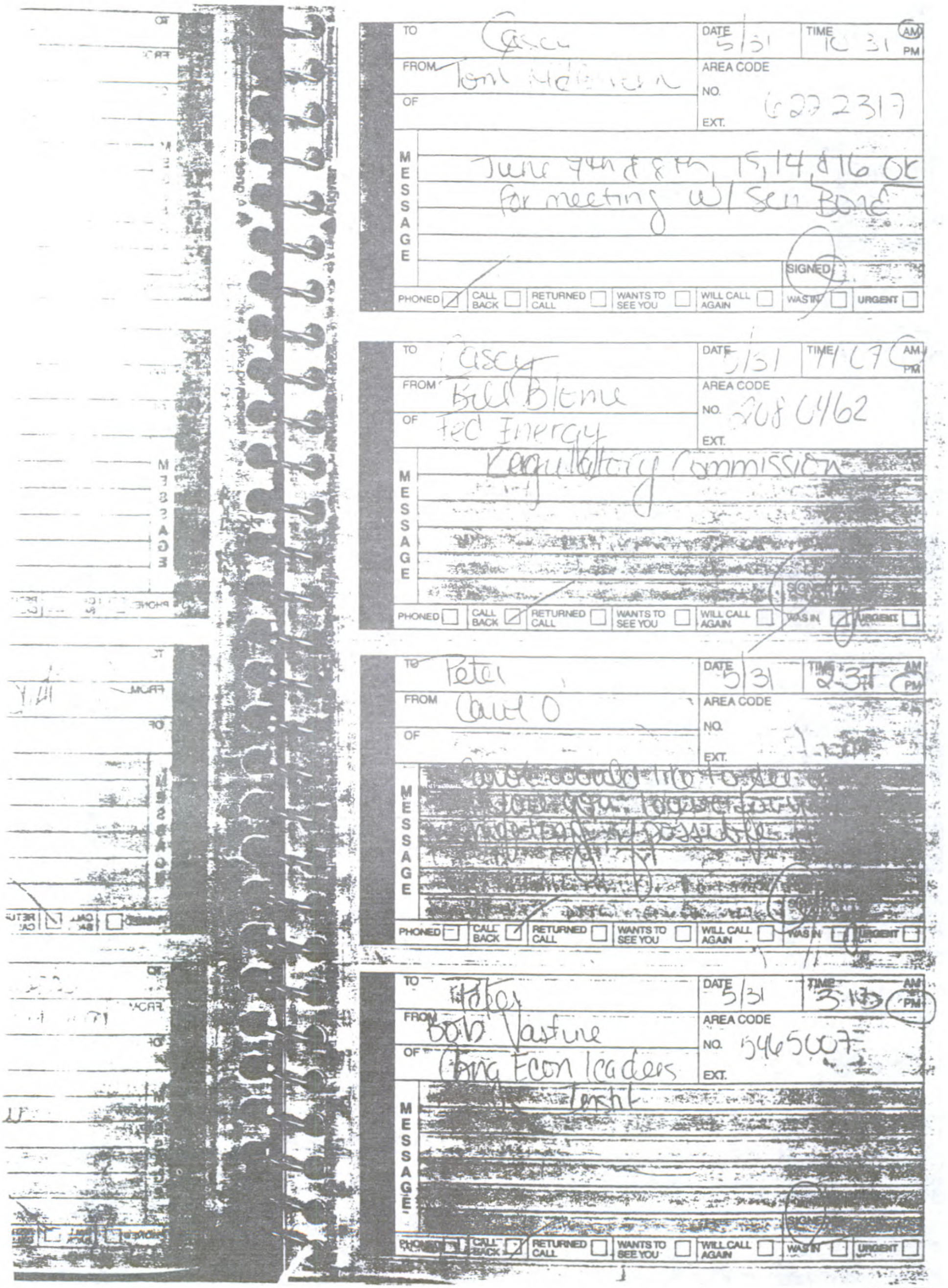
OF NO. 6221980

EXT.

MESSAGE

SIGNED

PHONED ☐ CALL BACK ☒ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☒ URGENT ☐

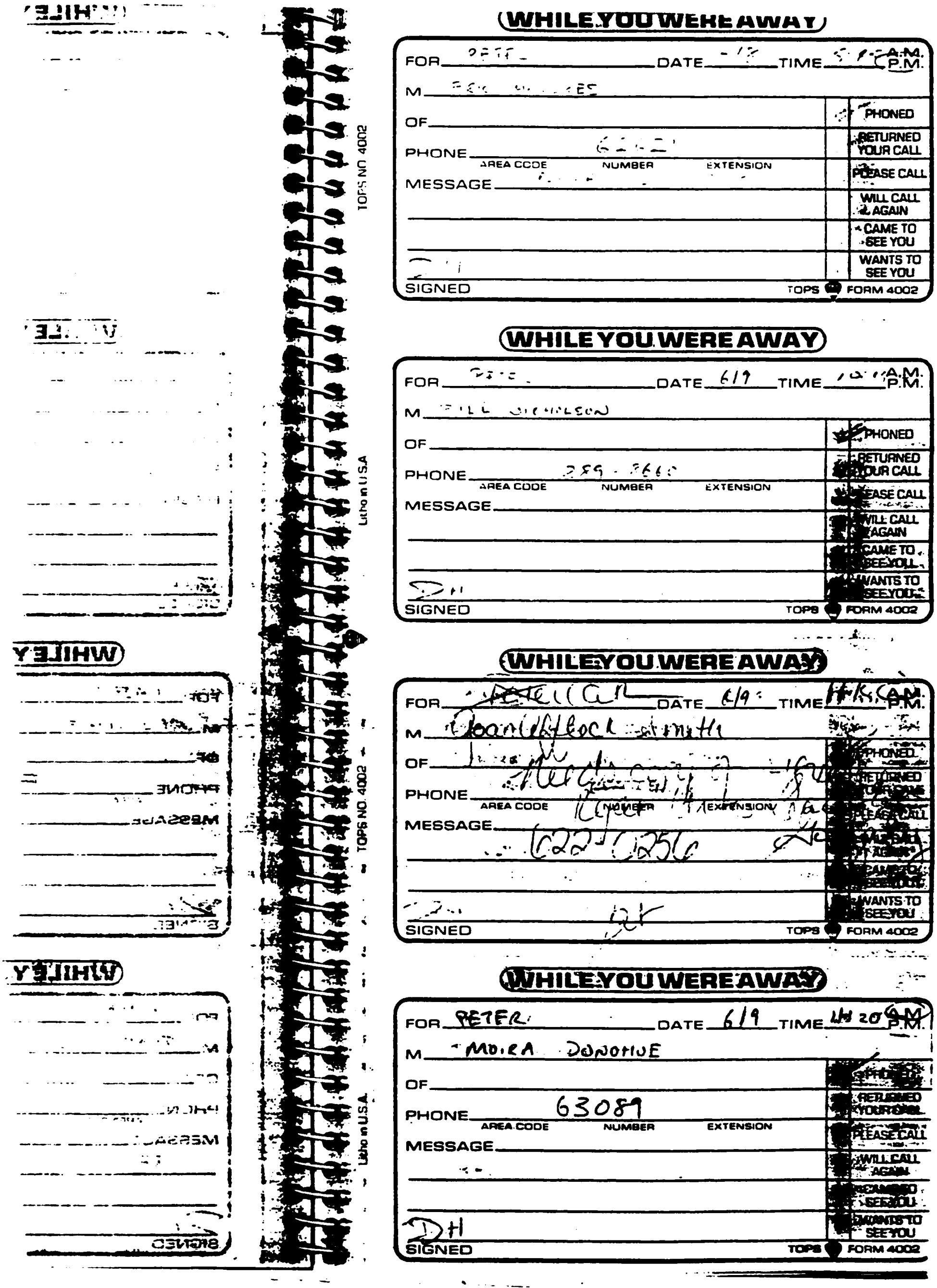


TO Casey
DATE 5/31
TIME 10 31 [✓ AM] PM
FROM Toni Hd[illegible]
AREA CODE
NO. 622 2317
EXT.
MESSAGE June 7th & 8th, 13, 14, & 16 OK for meeting w/ Sen Bond
SIGNED
PHONED ☑ CALL BACK ☐ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Casey
DATE 5/31
TIME 11 07 [✓ AM] PM
FROM Bill Blenue
OF Fed Energy Regulatory Commission
AREA CODE
NO. 208 0462
EXT.
MESSAGE
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 5/31
TIME 2:37 AM [✓ PM]
FROM Carol O
OF
AREA CODE
NO.
EXT.
MESSAGE [illegible] would like to see you [illegible] meeting [illegible] possible
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐

TO Peter
DATE 5/31
TIME 3:13 AM [✓ PM]
FROM Bob Vastine
OF Cong Econ leaders
AREA CODE
NO. 546 5007
EXT.
MESSAGE Tonight
SIGNED
PHONED ☐ CALL BACK ☑ RETURNED CALL ☐ WANTS TO SEE YOU ☐ WILL CALL AGAIN ☐ WAS IN ☐ URGENT ☐



WHILE YOU WERE AWAY

FOR [illegible] DATE [illegible] TIME [illegible] A.M. [✓ P.M.]

M [illegible]

OF

PHONE [illegible]

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

☐ PHONED
☐ RETURNED YOUR CALL
☐ PLEASE CALL
☐ WILL CALL AGAIN
☐ CAME TO SEE YOU
☐ WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR [illegible] DATE 6/9 TIME [illegible] A.M. P.M.

M [illegible]

OF

PHONE 259-3660

AREA CODE NUMBER EXTENSION

MESSAGE

DH

SIGNED

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR ~~Peter~~ [illegible] DATE 6/9 TIME [illegible] A.M. P.M.

M [illegible] Smith

OF [illegible]

PHONE [illegible]

AREA CODE NUMBER EXTENSION

MESSAGE 622-0256

SIGNED

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR PETER DATE 6/9 TIME 4 20 [✓ A.M.] P.M.

M MOIRA DONOHUE

OF

PHONE 63089

AREA CODE NUMBER EXTENSION

MESSAGE

DH

SIGNED

PHONED
RETURNED YOUR CALL
PLEASE CALL
WILL CALL AGAIN
CAME TO SEE YOU
WANTS TO SEE YOU

TOPS FORM 4002

TOPS NO 4002

Litho in U.S.A.

WHILE YOU WERE AWAY

FOR [illegible] DATE 6/18 TIME 12 [illegible] A.M. P.M.

M [illegible]

OF

PHONE 225-4631

AREA CODE NUMBER EXTENSION

MESSAGE

PLS CALL HIM BACK

☑ PHONED

☐ RETURNED YOUR CALL

☐ PLEASE CALL

☐ WILL CALL AGAIN

☐ CAME TO SEE YOU

☐ WANTS TO SEE YOU

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR [illegible] DATE 6/18 TIME 12 55 A.M. P.M.

M RICHARD

OF

PHONE

AREA CODE NUMBER EXTENSION

MESSAGE

SIGNED

TOPS FORM 4002

WHILE YOU WERE AWAY

FOR CASEY DATE 6/18 TIME [illegible] P.M.

M NEIL LOGUE

OF

PHONE ~~67099~~ 67099

AREA CODE NUMBER EXTENSION

MESSAGE

PLS CALL HIM BACK

DH

SIGNED

TOPS FORM 4002

TOPS NO. 4002

WHILE YOU WERE AWAY

FOR CASEY DATE 6/18 TIME [illegible] P.M.

M TOM McGIVERN

OF

PHONE

AREA CODE NUMBER EXTENSION

MESSAGE

RETURNED YOUR CALL

DH

SIGNED

TOPS FORM 4002

Litho in U.S.A.